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**Buying Discretion in Mexico's New Democracy:
Patronage in Bureaucratic-Legislative Relations**

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**Buying Discretion in Mexico's New Democracy:
Patronage in Bureaucratic-Legislative Relations**

by

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**Buying Discretion in Mexico's New Democracy:
Patronage in Bureaucratic-Legislative Relations**

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The dissertation analyzes why legislators fail to use their oversight powers over bureaucracy in democratic Mexico. While dominant institutional theories assume a unidirectional flow of authority from politicians to bureaucrats, in Mexico there is a bidirectional negotiation process; as such, principals have formal rights to control the agents, but agents have informal leverage over principals, as well. Due to the absence of a Weberian state and extensive state intervention, bureaucrats are able to control resources that legislators require in order to advance their careers. By distributing resources that politicians can use for patronage purposes, bureaucrats obtain legislators' consent to design and implement programs as they wish. Consequently, members of Congress renounce their control powers in exchange for securing resources for their constituents or cronies. Furthermore, informal mechanisms of influence neutralize the formal control

powers that legislators have over bureaucrats. Public officials' power and the lack of legislative control over bureaucracy are documented by analyzing the budgetary process and health policy in Mexico between 1997 and 2006. The main implication of the dissertation is that although democratization produced changes that gave more formal powers to Congress, it has not eliminated the informal mechanisms used by bureaucrats to influence legislators. As a result, public officials continue to enjoy ample leeway in implementing public policies and programs.

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ABBREVIATIONS AND ACRONYMS

AL	Appropriations Law
ASF	Auditoría Superior de la Federación
BANOBRAS	Banco Nacional de Obras y Servicios Públicos
BIRMEX	Laboratorios de Biológicos y Reactivos de México
CENSIDA	Centro Nacional para la Prevención y Control del VIH/SIDA
CFE	Comisión Federal de Electricidad
COFEPRIS	Comisión Federal para la Protección contra Riesgos Sanitarios
CONASUPO	Compañía Nacional de Subsistencias Populares
CONDUSEF	Comisión Nacional para la Defensa de los Usuarios de las Instituciones Financieras
CONEVAL	Consejo Nacional de Evaluación de la Política Social
CONVERGENCIA	Partido Convergencia
DH	Department of Health/Secretaría de Salud
DIF	Desarrollo Integral de la Familia
DOF	Diario Oficial de la Federación
FACLA	Fideicomiso para Administrar la Contraprestación del Artículo 16 de la Ley Aduanera
FEIP	Fondo de Estabilización de los Ingresos Petroleros
FIDEMICA	Fideicomiso Programa de Mejoramiento de los Medios de Informática y Control de las Autoridades Aduaneras
FINFRA	Fondo de Inversión en Infraestructura
FUNSALUD	Fundación Mexicana para la Salud

GAO	General Accounting Office
GHC	General Health Council
GHL	General Health Law
IFAW	International Fund for Animal Welfare
IMSS	Instituto Mexicano del Seguro Social
IRRFSCP	Informe del Resultado de la Revisión y Fiscalización Superior de la Cuenta Pública
ISSSTE	Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado
IMPI	Instituto Mexicano de la Protección Industrial
INE	Instituto Nacional de Ecología
INFONAVIT	Instituto del Fondo Nacional de la Vivienda para los Trabajadores
IPAB	Instituto para la Protección del Ahorro Bancario
ISOSA	Empresa Integradora de Servicios Operativos
JCP	Junta de Coordinación Política
LFC	Luz y Fuerza del Centro
LFPRH	Ley Federal del Presupuesto y Responsabilidad Hacendaria
LFSF	Ley de Fiscalización Superior de la Federación
NAFIN	Nacional Financiera
NCSPH	National Commission for Social Protection in Health
NGO	Non-Governmental Organization
NHI	National Health Institute
NHP	National Health Program

NOM	Norma Oficial Mexicana
PA	Punto de Acuerdo
PAN	Partido Acción Nacional
PASD	Partido Alternativa Social Demócrata
PAT	Principal-Agent Theory
PCR	Patron-Client Relationship
PEMEX	Petróleos Mexicanos
PGR	Procuraduría General de la República
PHI	Popular Health Insurance
PIDIREGAS	Proyectos de Infraestructura Productiva de Largo Plazo
PRD	Partido de la Revolución Democrática
PRI	Partido Revolucionario Institucional
PROFEPA	Procuraduría Federal de Protección al Ambiente
PT	Partido del Trabajo
PVEM	Partido Verde Ecologista de México
RCI	Rational Choice Institutionalism
SAT	Servicio de Administración Tributaria
SECODAM	Secretaría de la Contraloría y Desarrollo Administrativo
SEDESOL	Secretaría de Desarrollo Social
SEGOB	Secretaría de Gobernación
SEMARNAT	Secretaría de Medio Ambiente y Recursos Naturales
SFP	Secretaría de la Función Pública

SHCP/Hacienda	Secretaría de Hacienda y Crédito Público
SPH	Social Protection in Health
TESOFE	Tesorería de la Federación

CHAPTER 1: INTRODUCTION

Does democratization make bureaucrats accountable? The conventional wisdom on authoritarian regimes is that bureaucrats impose order and control over society without any checks imposed by the legislative branch. Under authoritarian rule, public officials have unlimited autonomy and huge bureaucratic discretion to design and implement public policies. To what extent do these practices change under democracy? What is the impact of democratization on legislative control over the bureaucracy? Do legislatures in new democracies constrain public officials' leeway?

The tension between democracy and bureaucracy has been examined profoundly in developed countries. In the U.S., for instance, while some scholars argue that officials act autonomously, others claim that legislators are able to rein in bureaucracies through the establishment of various institutional mechanisms (e.g. Dodd and Schott 1979; Carpenter 2001; McCubbins, Noll and Weingast 1987, 1989). In contrast, it is still unclear whether new democracies have imposed democratic principles and constraints on their bureaucratic structures. Because autonomous bureaucratic practices and actions may slowly undermine democracy, it is critical for the life of these new regimes that public servants are responsive and held accountable to legislators and ultimately to the citizenry. The purpose of this dissertation is thus to investigate the extent to which democratization has produced an increase in legislative control over the bureaucracy in Mexico.

This topic deserves attention for at least two reasons: In theoretical terms, the most influential studies in political science use rational choice institutionalism (RCI) to

examine bureaucratic-legislative relations in First World countries. This approach borrows principal-agent theory from economics to analyze in what ways legislators are able to rein in the bureaucracy. According to RCI, there should be higher congressional control over the executive's agencies in democracy than under authoritarian rule. This change is expected since democratic countries have a system of checks and balances between the branches of government. Furthermore, democracies allow for the existence of certain political conditions and contexts, such as divided governments, that facilitate congressional control over the bureaucracy. For this reason, it is expected that when a country moves from authoritarianism to democracy, bureaucrats will face significant and increasing constraints.

My dissertation examines whether this change really happens. Do politicians exert effective control over the bureaucracy under democratic conditions? By examining this question I assess an important aspect of the RCI approach. In particular, I contend that principal-agent theory (PAT) does not apply in new democracies --at least in the way it has been utilized in First World countries-- since its assumptions are not valid in these settings. I claim that certain factors not considered by PAT, such as the weak rule of law, make it difficult to apply this framework to developing countries. I argue that certain political factors have to be included in the PAT in order to provide a valid account of bureaucratic-congressional relations in Mexico, as well as in other fledgling democracies.

In substantive terms, bureaucratic-legislative relations need to be studied because it is still unknown to what extent democratization has modified bureaucrats' behavior in developing countries. Although there are some studies that assess the role of public

officials in recent democracies, few studies have analyzed whether democratization has had an impact on bureaucracies (Siavelis 2000; Eaton 2003; Ferraro 2008). This is an important issue for Mexico because its bureaucracy used to be a state within the state, so has democracy made a difference? The answer to this question is not only relevant to Mexico but has broader implications for other developing countries. To date, it is known that legislatures in these countries have started to play an important role in balancing the relationship between the executive and legislative branches of government. In particular, legislators have used their power to initiate, amend and block bills to counterbalance the previously pervasive influence of presidents. However, there are almost no studies that focus on whether democratization has also affected other aspects of the executive-legislative relationship, such as the latitude commanded by the bureaucracy. By examining the case of Mexico I analyze to what extent democracy has increased the level of legislative control over public officials in developing countries.

THE ARGUMENT IN BRIEF

During the PRI administrations, bureaucrats acted with hardly any constraints (Díaz-Cayeros and Magaloni 1998; Weldon 2002; Cejudo 2008). Since the dominant party controlled all branches of government, Congress did not effectively check public programs. Thus, executive agencies decided autonomously how and where to allocate state resources. This huge bureaucratic discretion to design and implement policies

provided ample room for officials to frequently abuse their office with corrupt acts (Ugalde 2000).

In the wake of democratization, the Mexican legislature's formal control over the bureaucracy has increased. But in reality this change has been insufficient to keep bureaucrats constrained. Democratic conditions have allowed legislators to enact stricter legislation that, in principle, should limit bureaucrats' leeway to design and implement public programs. In practice, however, officials do not respect such laws and, consequently, bureaucrats continue to carry out many policies at their convenience. What explains the lack of effective legislative control over the bureaucracy in democratic Mexico? Why do legislators tolerate significant bureaucratic discretion in the implementation of public policies? Why has democratization not made officials more accountable to the legislative branch? Why are legislators reluctant to use their oversight powers? In short, why are democratic expectations, in terms of greater legislative control over the bureaucracy, not met in Mexico?

The reason why there has not been a significant shift in the legislature's actual influence is that bureaucrats control resources that legislators need. I argue that in Mexico, the control of governmental resources allows bureaucrats to influence legislators. Whereas principal-agent theory stipulates that politicians exert unilateral control over public officials, in Mexico there is a bidirectional influence: legislators have formal rights to control bureaucrats, but officials have informal leverage over lawmakers as well. Due to the absence of a Weberian state, politicians' reliance on clientelistic linkages and extensive state intervention in many economic and social spheres, public

officials are able to control resources that legislators require in order to advance their careers. By distributing resources that politicians can use for patronage purposes, bureaucrats obtain legislators' consent to design and implement programs as they wish. As a result, in exchange for securing resources for themselves or their constituents members of Congress do not use their control powers

In contrast to the expected effects of democracy on bureaucratic-legislative relations, namely significant control over the bureaucracy, there is mutual influence between members of Congress and officials in Mexico. In fact, democratization has encouraged the enactment of stricter legislation which has allowed legislators to obtain more influence than they had under the non-democratic regime. However, although democratization has brought changes in formal laws, it has not transformed informal practices. Consequently, bureaucrats still have ample discretion to perform their daily tasks without effective oversight.

BUREAUCRACY IN AUTHORITARIAN AND DEMOCRATIC REGIMES

In all forms of government there are politicians that design and pass public policies and programs and bureaucrats that implement them. Politicians thus delegate authority to appointed officials to carry out their policies. The work of bureaucrats, however, starts even before politicians decide what policy is going to be adopted since public officials elaborate and define the policy options to be considered by the president

and Congress. Thus, although politicians decide the policy guidelines, bureaucrats are the ones that know how to “give shape and form” to such policies (Gruber 1987: 6).

The delegation of authority from Congress to the bureaucracy does not guarantee that officials will obey the politicians’ directives. Consequently, in such delegation of power there lies an inherent risk: the abuse of power by bureaucrats. That is, instead of implementing policies that were approved by politicians, bureaucrats can make use of their position to pursue their interests and advance their priorities. Bureaucrats, for instance, can distribute government resources according to their own preferences or offer tax breaks to certain interest groups. To ensure that bureaucrats will not deviate from politicians’ directives, the latter need to establish checks on the formers’ actions. But can politicians effectively control bureaucrats?

Political control over the bureaucracy is one of the most studied topics in the social sciences. Since the time of Bismarck in Germany, Max Weber (1946) analyzed the effectiveness of the ‘master’s’ influence over the ‘expert’. Regardless of the type of political regime, politicians—or rulers heading the state—try to establish control over their subordinates. Why? What advantages do politicians gain from checking bureaucratic work? Politicians care about bureaucratic compliance because they need it to achieve their goals (Gruber 1987: 5). In democratic regimes, for example, citizens reward or punish politicians for the outcomes obtained from public policies. Consequently, in order to advance their careers, politicians need to enact effective programs that satisfy the citizenry’s demands. In attaining this goal politicians face a problem: they do not have the time or the expertise to design and implement policies. In

contrast, bureaucrats have the technical knowledge and the information necessary to plan, prepare, and operate all the public programs.

Rulers in authoritarian regimes also seek bureaucratic compliance but, in contrast to democracies, they use it for different objectives. Instead of exercising control as a means to satisfy citizens' demands, authoritarian rulers exert their influence over the bureaucracy to maintain their authority and keep the citizenry and opposition groups under their grip. The political control of the bureaucracy in democracies, on the other hand, has a very different purpose. In democratic systems, control mechanisms are essentially used to prevent the abuse of power and to ensure efficient policy results. In fact, democracy implies the idea that elected representatives *should* control administrative action (Scher 1963: 526). Accordingly, officials' accountability and responsiveness are considered to be two core elements of this form of government (Przeworski, Stokes, and Manin 1999).

In contrast to authoritarian governments, where rulers' accountability does not exist or is very limited, democracies have both electoral and intrastate accountability (Mainwaring 2003).¹ That is, in democratic regimes politicians are not only accountable to citizens, mainly through elections (electoral accountability); but appointed officials and bureaucracies are also answerable to certain state institutions such as legislatures (intrastate accountability). In order to stay in power and continue governing politicians must, among other tasks, design policies and check that bureaucrats are producing effective outcomes. Thus, whereas authoritarian rulers are not obliged to produce benefits

¹ For a similar classification of accountability, see O'Donnell (1999).

to society, democratic rulers are supposed to impose checks on public officials to avoid the abuse of power and ensure positive policy results.

Perhaps not surprisingly, bureaucrats behave very differently in authoritarian and democratic regimes. Under authoritarianism, bureaucrats design and implement policies as commanded by dictators. Thus, there is no state agency or branch of power –besides the executive branch-- that can serve as a check and modify or stop bureaucratic decisions. By contrast, decision-making in democracies allows for the participation of the president, the legislature and diverse societal actors in public programs being implemented. Once public programs are approved, politicians and interest groups monitor them, make sure that policies are being implemented according to the guidelines previously approved, and denounce or sanction any deviations from the laws. Bureaucrats, therefore, tend to respect politicians' directives and give an account of their work.

In both authoritarian and democratic regimes, then, politicians seek bureaucratic compliance. There is a difference, however, in the kind of control exerted in both political regimes. Under authoritarianism, bureaucratic compliance is exercised by a dictator (or *junta*); while in a democracy constraints are imposed either by the citizenry, an elected representative or a state institution (Gruber 1987: 12). Moreover, while citizens in authoritarian systems cannot ask for control over officials, people in a democracy are entitled to demand it. Additionally, whereas rulers and bureaucracies are not accountable to society in authoritarian regimes, in democracy it is expected that both elected and appointed officials are responsible for the performance of their work.

Finally, in terms of the number of institutions overseeing the bureaucracy, in democracies the president is not the only actor interested in checking the work of the bureaucracy, as members of Congress also want to play a role. The involvement of more players in decision making and in the control over the bureaucracy makes the relationship between public officials and politicians more complicated in democracy than in authoritarian regimes.

As described above, the relationship between politicians and bureaucrats is very different in democracies and authoritarian regimes. For this reason, it is expected that when a country changes its regime from authoritarianism to democracy, bureaucrats will face significant and increasing constraints. This dissertation examines these expectations by assessing whether democratic conditions in Mexico induce legislators to effectively constrain public officials.

THE TENSION BETWEEN BUREAUCRACY AND DEMOCRACY

One of the main principles of democracy is that public power should be used to serve public ends (Gruber 1987: 49). Rulers, therefore, should provide citizens with public goods, services and solutions to collective action problems (O'Donnell 2003: 36). In order to accomplish this objective and prevent the abuse of power, people must constantly keep their rulers in check. Accordingly, democracy implies the idea that citizens should control the government.

In modern societies, the citizenry's direct control of bureaucracy "is possible only in a very limited degree" (Weber 1978: 224) because people do not have the direct mechanisms necessary to sanction the actions of the bureaucracy (Przeworski, Manin, and Stokes 1999: 20).² Nonetheless, public officials are expected to be responsible and accountable to the people's elected representatives. Hence, accountability and responsiveness can be achieved through legislative control over public officials. In this way, by giving an account of their bureaucratic work to legislators, officials are indirectly accountable to the public as well.

Unfortunately, in practice the relationship between bureaucrats and politicians does not run so smoothly in democratic regimes, and a tension emerges in at least two ways. First, citizens in democracies demand two contradictory goals. On the one hand, people want bureaucracies to deliver effective policy outputs. On the other hand, the citizenry demands the control of public officials to prevent the abuse of power. How can politicians reconcile these conflicting goals?

As pointed out by Weber (1948), there is an asymmetry in the relationship of power between bureaucrats and politicians. While politicians have the authority to make decisions, bureaucrats have the expertise to manage the administration of the state. With frequency, Weber asserted, technical expertise gives bureaucrats an advantage over politicians. Given the asymmetry of information and expertise, politicians face a difficult dilemma. In order to achieve policy goals, they can either impose strict controls or delegate ample discretion. If politicians establish severe constraints they may prevent the

² There are other factors that also limit the competence of citizens to control government, such as the asymmetry of information between the rulers and the ruled (Gruber 1987).

abuse of power, but they may also inadvertently hinder bureaucratic efficiency. That is, by imposing administrative and procedural controls on the design and implementation of policies, politicians may delay the policy process. By contrast, if ample discretion is granted to bureaucrats, efficient results might be obtained but the risk remains that officials will abuse their power and depart from citizens' demands. Can politicians neutralize the impact of asymmetry of information through institutional constraints and force bureaucrats to accomplish only the policy goals established in legislation? How can politicians take advantage of bureaucrats' expertise without undermining their efficiency? Is it possible to reconcile bureaucratic expertise with political controls?

Second, democracy implies the premise that the ruled choose their rulers through elections. In the case of bureaucracies, these are administrative apparatuses integrated by both appointed officials and medium and low level officials hired by recruitment systems that do not necessarily follow meritocratic principles. Thus, bureaucrats are not elected by the public and, consequently, they are not forced to respond to people's interests. In addition, and as mentioned earlier, there are no direct mechanisms through which citizens can sanction bureaucrats' work. Why, then, should bureaucrats care about people's interests? If the bureaucracy does not fulfill citizens' demands, the relationship between state and society would deteriorate and, as a result, the quality of democracy might decline.

In sum, the bureaucracy's objectives are frequently in conflict with democracy's principles. The challenge to politicians and bureaucrats is to find an equilibrium in which the objectives of each actor can converge. That is, in democratic regimes there should be

a common ground where bureaucrats can achieve efficient results while respecting the guidelines and procedures previously established by politicians. Similarly, politicians should impose controls over the bureaucracy that make them accountable without unduly reducing officials' efficiency.

INTRASTATE ACCOUNTABILITY

This dissertation focuses on examining intrastate accountability. In contrast to electoral accountability, in which rulers are accountable to citizens mainly through elections, in intrastate accountability appointed and non-elected officials are answerable to state institutions through diverse mechanisms. Accordingly, appointed officials, and bureaucracies in general, have to give an account of their duties to certain state institutions that are entitled to demand such accounting and/or impose sanctions on non-elected officials (Mainwaring 2003: 7).³ State agencies can control bureaucrats either by establishing constraints in laws, carrying out oversight actions such as the monitoring and supervision of public programs, or by imposing sanctions on those officials who have transgressed the law or who have not achieved certain goals.

³ This type of accountability is what O'Donnell (1999) calls "horizontal accountability". Specifically, O'Donnell defines horizontal accountability as "the existence of state agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful" (1999: 38). I use Mainwaring's term 'intrastate accountability' because it is a more comprehensive concept. For instance, in contrast to O'Donnell's definition, intrastate accountability is not limited to officials' transgressions of the law. Thus, intrastate accountability includes not only legal transgressions by state actors but also officials' political and juridical accountings for their performance (Mainwaring 2003: 6-20).

The legislative branch is one of the state institutions that should exert control over the bureaucracy. In fact, the control of executive agencies is, along with the creation and reform of laws and the representation of citizens' interests, one of the legislative branch's main functions. Legislators create agencies and public policies and then allocate resources to be spent in the respective areas. By passing legislation, members of Congress define policy guidelines that contain substantive and procedural instructions to be followed by public officials. Such instructions establish the limits of what bureaucrats can and cannot do when implementing public programs. In theory, legislators should monitor whether officials are carrying out policies according to the procedures and guidelines included in legislation. Lawmakers can also carry out oversight actions such as information requirements, officials' appearances before legislative committees, and investigations of certain state agencies or programs to verify that officials are accomplishing their tasks and not transgressing laws. By exercising this type of control legislators try to achieve effective policy outcomes, avoid wrongdoings, or prevent and sanction –directly or indirectly-- acts of corruption within the bureaucracy. These types of legislative actions are part of the checks and balances that are supposed to prevail in political systems with separation of powers.

This dissertation will investigate the control that the legislative branch exerts over the bureaucracy in democratic Mexico. In contrast to the executive branch, the Mexican Congress did not effectively exercise its functions during the non-democratic era. In fact, both chambers of Congress served as rubber-stamp institutions. That is, the legislative branch approved almost all of the presidents' bills without significant changes. Although

legislators proposed many legislative bills, the great majority of the initiatives that became laws were the ones sponsored by the executive branch. Similarly, the Mexican Congress never effectively utilized its control powers to check the work of the bureaucracy. The fact that PRI presidents had ample majorities in Congress, and that legislators' political careers depended upon—to a great degree—their loyalty to the head of the executive branch, explains the lack of legislative control during the non-democratic period. Had members of Congress exerted control over government policies, their careers could have been endangered.

The appearance of the first divided government in 1997 and the PAN victory in the 2000 presidential election changed the role of the Mexican Congress in the political system. In terms of legislative bills, for example, lawmakers started to approve their own initiatives and to discuss, modify or reject executive bills. In other words, presidents stopped being the main sponsors of bills and were consequently forced to negotiate the presidential agenda with opposition legislators. But did democratization activate the control powers of Congress?

At first glance, it seems that democracy produced more bureaucratic accountability. Since the 1990s, for example, lawmakers have imposed diverse constraints on bureaucrats in legislation and members of Congress have modified laws to reduce bureaucrats' discretion to manage and allocate various types of public funds. Furthermore, public officials now have to give an account of their duties by providing reports about their public programs, and bureaucrats are frequently asked to appear before legislative committees to discuss the state of public policies.

All of these actions would make it seem as though legislators are effectively constraining public officials. A deeper analysis shows, however, that the level of bureaucratic discretion remains at a high level. That is, the legislative efforts to control the bureaucracy have not been sufficient to effectively rein in public officials. While legislators have enacted stricter laws that should, theoretically, keep officials under control, in practice bureaucrats do not respect many provisions of such laws and continue to enjoy ample discretion in designing and implementing public policies. Similarly, bureaucratic reports have not proven to be efficient mechanisms to oversee agencies' work. Legislative hearings with officials are very superficial; lawmakers use them not to analyze the state of policies but to try to damage bureaucrats' image. The main purpose of this dissertation is to explain why legislators continue to allow high bureaucratic discretion under democratic conditions.

RELEVANCE

This dissertation analyzes legislative control over the bureaucracy in democratic Mexico. The relevance of the dissertation lies in the fact that it addresses three topics scarcely studied in developing countries. First, the role of bureaucrats in new democracies is explored. The dissertation studies to what extent bureaucracies strengthen or weaken democratic regimes. Second, legislative-bureaucratic relationships are examined in a developing country. Although scholars have recently analyzed the function of legislatures in developing countries (e.g. Morgenstern and Nacif 2002); there are few

studies that assess the relationship between bureaucratic apparatuses and lawmakers. The dissertation will thus try to fill a gap in the literature. Finally, in explaining the deficient political control over the bureaucracy in Mexico, the dissertation will underscore the importance of informal institutions. The next section explains each one of these points.

BUREAUCRACIES IN NEW DEMOCRACIES. In modern democracies, citizens elect representatives in order to make laws that regulate different aspects of their lives. With great frequency, legislation passed by Congress creates public policies and programs that benefit—or cause detriment—to certain sectors of the population.⁴ In order to implement these programs legislators assign authority and delegate power to appointed officials. In this way, the bureaucracy is the part of government that organizes and regulates the citizenry's ordinary activities.

Complex societies cannot function without the work of bureaucracies. Almost all activities that people undertake are regulated or administered by a public agency. Carpenter (2005: 41) describes the influence of the bureaucracy in the U.S. as follows:

The simple details of American daily life reveal the pervasive presence of the bureaucratic state—the dollars in our wallets, printed by the Treasury Department; the peanut butter we eat, subsidized and regulated by the U.S. Department of Agriculture (USDA); the pain medications we take, approved and governed by the Food and Drug Administration; the cars we drive, produced in

⁴ As previously mentioned bureaucrats help politicians in the elaboration of bills before being discussed and approved in committees.

factories regulated by the Occupational Safety and Health Administration (OSHA) ... and the \$423.3 billion in checks that our elderly and disabled receive annually from the Social Security Administration.

Thousands of daily activities are carried out because of the work of bureaucracies. The ways in which bureaucrats implement policies and supply public services have a direct effect on the life of the citizenry. Public officials frequently make decisions that significantly affect the relationship between the state and its citizens. For instance, bureaucrats' decisions determine the geographical area that will be covered by a public health policy, which agricultural producers will receive subsidies, and whether citizens' expenses qualify as tax deductions.

Given the impact of bureaucracies on the citizenry, the manner in which officials interact with the public determines—to a great extent—the quality of the relationship between the state and society. If public officials, for instance, design and implement efficient public policies with strict adherence to laws, the relationship between the state and society will be healthy. In contrast, if bureaucrats transgress laws and carry out policies to satisfy their own interests, the relationship will be damaged. Because public officials' actions have significant consequences for the daily lives of citizens, the work of bureaucracies is very important for the quality of democracy. Accordingly, it is critical that new democracies assess to what extent bureaucrats are controlled and fulfilling their administrative tasks.

BUREAUCRATIC-LEGISLATIVE RELATIONS IN DEVELOPING COUNTRIES. The relevance of this dissertation also arises from the fact that it examines bureaucratic-legislative relationships in a developing country. This topic remains scarcely studied, at least from a political science perspective.⁵ Although rational choice institutionalism has examined the executive branch by focusing on presidentialism (Shugart and Carey 1992; Linz and Valenzuela 1994; Mainwaring and Shugart 1997; Lanzaro 2003), it has systematically disregarded the role of the administrative apparatus that supports presidents. In particular, institutionalists have overlooked the relationship between lower levels of the executive branch and the legislature. In other words, by only addressing presidential-legislative relations political scientists have ignored the role of bureaucratic-legislative interactions in the political system. This gap in the political science literature is unfortunate because the relation between bureaucracy and Congress produces outcomes that have significant consequences for democracies.⁶

Such outcomes have not been thoroughly studied in developing countries. In Latin America, for instance, despite the fact that all countries have adopted democracy as a form of government, it is still uncertain whether they have imposed controls over their bureaucratic apparatuses. Can a few hundred elected legislators influence thousands of bureaucrats and control hundreds of governmental programs? Can recently installed democracies make bureaucratic actions responsive to the citizenry? Because autonomous

⁵ Some exceptions are Siavelis (2000); Ugalde (2000); Eaton (2003); Ríos Cázares (2010); and Ferraro (2008).

⁶ Just to mention an example, in agricultural issues, legislators decide whether or not the governments will help the farmers' production with subsidies whereas public officials are the ones that ultimately decide the extent and distribution of such subsidies. Legislators and bureaucrats' decisions then may produce significant changes in the state-society relationship.

bureaucratic agencies may undermine new democratic regimes, it is imperative to know to what extent legislatures are reining in bureaucrats. Congressional control over the bureaucracy is thus a function that should be exerted in fledgling democracies.

Legislators in new democracies have, in fact, made substantial modifications to bureaucratic apparatuses. Members of Congress, for instance, have created new agencies and reorganized the internal structure of others. But despite these changes it is still uncertain to what extent bureaucrats have, in practice, changed their behavior. Similarly, the executive and legislative branches have adopted policies that have had a huge impact on the citizenry. Legislatures in recent democracies have approved very important legislation that, in principle, has transformed the political, social and economic spheres of developing countries. However, it is unclear whether bureaucrats have implemented these policies to satisfy citizens' demands or to benefit their own clientele. Another objective of this dissertation, then, is to assess to what extent bureaucracies operate under democratic rules and to know whether legislators exert effective control over public officials in order to benefit the citizenry.

INFORMAL INSTITUTIONS. It is well known that, in addition to formal rules such as constitutions, legislation and statutes, informal institutions shape how democratic institutions work (Helmke and Levitsky 2004; 2006). Informal institutions are defined as "socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels" (Helmke and Levitsky 2004: 727). As in other realms of politics (e.g. electoral and judicial systems), informal institutions exist in

bureaucratic-legislative relationships. For example, in addition to the secret meetings or negotiations that public officials and legislators have under the table to approve laws, there are also many informal practices through which bureaucrats provide benefits to legislators in exchange for allowing discretion in the implementation of public programs. This dissertation explores such informal practices and mechanisms.

Scholars that analyze legislative control over the bureaucracy in developed countries tend to focus on formal institutions such as legislation, statutes and administrative procedures to determine the level of discretion granted to bureaucrats by legislators (e.g. McCubbins, Noll, and Weingast 1987). Analysts then assume that the level of discretion and constraints established in legislation and other formal rules will guide bureaucratic behavior. Scholars also assume that bureaucrats will respect such laws and will carry out public policies with strict adherence to lawmakers' guidelines. This may be the reality in developed countries with professionalized and hierarchically organized bureaucracies. But it is not necessarily the case in fledgling democracies without a Weberian state and extensive state intervention in economic and social spheres. Instead, in developing countries the bureaucratic-legislative relationship is driven in large part by informal patterns.

This dissertation explains how informal practices embedded in the bureaucratic-legislative relationship influence members of Congress to give ample leeway to public officials in exchange for benefits for themselves or their constituencies. Despite the fact that democratization has encouraged members of Congress to enact low discretion legislation that, in theory, should reduce bureaucratic leeway, in actuality, informal

practices have subverted the controls and constraints imposed upon public officials by legislators. That is, unwritten rules and informal practices neutralize the effects and constraints of formal rules. As a consequence, Mexican lawmakers pretend to control bureaucrats and public officials act as if they are reined in by legislators. In contrast to U.S. studies, which, by and large, are focused on formal rules and institutions, this dissertation explains why the examination of formal rules alone cannot account for the lack of legislative checks on the bureaucracy. By analyzing the case of Mexico, this dissertation will contribute to the study of informal institutions in developing countries.

WHY MEXICO?

The dissertation focuses on the case of Mexico for two reasons. First, Mexico recently changed its political regime. Although there is controversy regarding when the transition to democracy started, analysts agree that the PRI's loss of an absolute majority in the Chamber of Deputies in 1997, along with the PAN's presidential victory in 2000, represented the end of the non-democratic period (e.g. Beer 2003). In theory, the regime change should have produced a balance of power among the branches of government. The existence of divided governments since 1997, for instance, has led opposition legislators to propose and approve important legislation, such as the transparency law that has modified the state-society relationship. Also, the judicial branch was transformed from a body subordinated to the executive power to a more independent institution that has increased its authority to solve several political conflicts.

These changes seem to indicate that democratization activated an effective system of checks and balances among the branches of government. In the specific case of the executive-legislative relationship, legislators' modification and rejection of presidential bills gives the impression that Congress has become an institution that really counterbalances the power of the executive branch. However, it is still uncertain to what extent democratic conditions and modifications to formal rules have really changed the status quo that existed during the PRI era. Up to now, studies have only uncovered that lawmakers are using their power to propose, modify and reject bills. It remains unclear whether democracy has triggered effective legislative control over the bureaucracy. Given that Mexico has had a democratic regime since 1997/2000, the country serves as a good case to examine whether democratization has really produced significant changes to the executive-legislative relationship, and if those changes are of great consequence or remain superficial.

Second, the political and economic effects of bureaucratic discretion seem to be highly consequential to the country. For instance, public officials' corruption, which is in many ways a byproduct of deficient congressional control over agencies' actions, has significant negative consequences for the country. Different corruption indexes show that Mexico has one of the highest levels of corruption among Latin American countries (UNDP 2004). According to Transparency International's Corruption Perception Index 2007, Mexico currently has a high level of corruption in the public sector – it received a score of only 3.5 out of 10, where higher scores indicate less corruption. Similarly, Transparencia Mexicana, a Mexican NGO, states that the federal and local governments

have not significantly reduced the level of corruption in the last several years. In 2001, Mexico received a score of 10.6 out of 100 in the national corruption and good governance index, where zero points mean no corruption. By 2007, the score had barely been reduced by six decimal points (Transparencia Mexicana 2007). That same year, Transparencia Mexicana detected 197 million acts of corruption. Another survey pointed out that 25 percent of Mexican citizens consider corruption as the country's main problem. In other words, one out of four Mexicans thinks that corruption is a more pressing problem than poverty or public security (SFP 2004).

The amount of money spent in acts of corruption in Mexico is enormous. Studies have shown that bureaucrats receive 29 billion dollars annually from entrepreneurs (a figure which is equivalent to 4.5 percent of GDP) in exchange for illicit practices, such as discretionary concessions to contractors and preferential rates given to specific individuals (Jaramillo 2005). In the same vein, a 2005 survey administered to Mexican entrepreneurs reported that private companies spend 6 percent of their annual income on bribes to public officials. Entrepreneurs pay these bribes to avoid having to comply with procedures established in laws and to receive special treatment from federal agencies (CEESP 2005). Transparencia Mexicana also reported that, on average, Mexican families use 8 percent of their income to bribe bureaucrats in exchange for public services (Transparencia Mexicana 2007). As the corruption data shows, the lack of legislative control over the bureaucracy has significant negative consequences for the country. Therefore, it is extremely important to assess why Congress is not using its control powers to try to reduce such consequences.

RESEARCH DESIGN

The dissertation examines the level of legislative control over the bureaucracy by carrying out in-depth case studies of two federal policies (fiscal and public health). The project draws on the analysis of governmental and congressional documents and reports to assess the impact of democracy on bureaucratic-legislative relations. Additional information was obtained through field research carried out in Mexico City between March 2006 and August 2009. Seventy three key informants, including legislators, bureaucrats, and legislative staff were extensively interviewed.⁷ In order to assess whether democratization has had an effect on the extent of congressional control, the dissertation analyzes the fiscal and health policies between 1991 and 2006. These years comprise a period of PRI domination of Congress (1991-1997), an incipient democratic phase where the PRI still occupied the presidency but lacked a congressional majority (1997-2000), and a democratic period where the PAN won the presidency (2000-2006). The first period allows me to assess the extent of legislative control over the bureaucracy during the PRI era and to probe how diverse institutional variables (e.g. unified government) affected the level of bureaucratic discretion. The initial impact of democratization on bureaucratic-legislative relations is assessed between 1997 and 2000. Finally, the effects of full scale democratization on the administrative apparatus are examined during the government of President Fox. The comparison of the three periods reveals what changes democratization produced and how legislative influence on executive agencies has evolved over time.

⁷ Almost all the interviewees asked for confidentiality, therefore they are not identified by name in the text. However, the Appendix shows the list of interviews by name and position.

Fiscal and health policies were chosen as issue areas for case studies because these policies vary in content and technical complexity. The technical complexity of policy issues is said to determine the level of authority delegated to bureaucrats (Bawn 1995; Epstein and O'Halloran 1999). It is likely that the degree of technical complexity of each policy influences the level of bureaucratic discretion stipulated by law and affects how easily agents' leeway can be constrained. In theory, legislators who do not command the knowledge to deal with complex technical issues will end up writing imprecise legislation that provides high discretion to bureaucrats. Following this argument, the greater the complexity of the issue area, the harder it will be to rein in bureaucratic discretion. This dissertation tests whether the nature of the issue area affects lawmakers' control.

To assess the impact of democratization on legislative control over the bureaucracy, it is necessary to apply a formalistic-legal approach. The latter consists of examining the checks and controls stipulated by law. The analysis of this dimension is necessary because legislation is considered an *ex ante* constraint to bureaucratic leeway. That is, formal rules constrain political behavior, establish guidelines for deliberation, aggregate preferences, and generate shared mutual expectations among political actors (Carey 2000). As Paul Pierson notes: "Both formal institutions (such as constitutional arrangements) and *public policies* place extensive, legally binding constraints on behavior" (2004: 34, emphasis in original).

Although formal rules such as laws and legislative statutes establish the legal boundaries and limits of public officials' actions, they do not necessarily serve as

effective constraints on bureaucratic behavior (Carey 2000). The ineffectiveness of formal rules to bind political actors is characteristic of developing countries. For example, scholars who study Latin America have argued that the force of formal rules to guide and command political behavior is significantly weaker than in First World countries (Weyland 2002; Helmke and Levitsky 2004). Applying this logic to legislative-bureaucratic relations, there is no guarantee that bureaucrats will fully comply with such laws, even if legislators enact low-discretion legislation. For this reason, in a second stage of the analysis I evaluate the enforcement of laws and the extent of bureaucratic compliance with them. In this way, the dissertation not only includes the analysis of discretion allowed in laws but also the effectiveness of the laws' final implementation. Obviously, this second aspect is decisive since it determines effective outcomes.

MAIN CONCEPTS AND DEFINITIONAL ISSUES

BUREAUCRACY. Throughout the dissertation the term bureaucracy refers to those middle and top level public officials that are responsible for the design and implementation of public policies and programs (for a similar definition see Carpenter 2001).⁸ According to this definition, the bureaucracy includes those middle level governmental civil servants with permanent and stable employment, who have technical skills and keep their posts through governmental and regime changes. In addition, the bureaucracy also comprises people appointed to “cargos de confianza” that also may have technical expertise but that

⁸ I use the terms bureaucrats, civil servants and public officials interchangeably.

owe their position to political considerations. Ministers or secretarios de estado are thus included within this last group. Middle and high level officials are considered direct agents of the president. Hence, the term “bureaucratic-legislative relations” refers to the interaction among members of Congress, presidents and middle and top level bureaucrats.

I excluded lower level bureaucrats in my analysis because, although these officials are in charge of implementing governmental programs, they are not able to decide the content or the course of policy programs. Moreover, low level bureaucrats are not politically accountable or responsible for the success or failure of policies. For instance, the officials that take credit for the accomplishment of certain public programs are those in the middle and higher echelons of bureaucracy. In the same vein, when Congress asks a bureaucrat to appear before a committee to explain the development of a certain policy, the person that provides the explanation is a middle or high level bureaucrat.

POLITICAL CONTROL OVER THE BUREAUCRACY. The executive and legislative branches are the two main state institutions that directly or indirectly oversee, monitor and sanction bureaucracies. Presidents and top level officials as well as members of Congress rely on lower level bureaucrats to achieve their goals, given that they cannot design and implement all public policies and programs by themselves. Presidents, top-level officials and legislators thus grant bureaucrats influence on policy making. In order to ensure that their subordinates are following their directions, the executive as well as the legislative

branch—or agencies created by them—exert control over their administrative departments. Despite the similarities, there are important differences in the type of control that both institutions exercise over the agencies. Presidents appoint ministers and many top-level officials of the bureaucracy. These civil servants then appoint other officials who are in charge of big sectors of the bureaucracy. Accordingly, top-level officials are the direct superiors of all the bureaucrats within an agency. This hierarchical organization allows high ranking officials to have great power over the rest of the agency's civil servants. In theory, due to their hierarchy top-level bureaucrats' decisions are followed faithfully by lower ranking officials. The middle and low levels of the bureaucracy might be at risk if they disobey high ranking officials' orders. Given the power that ministers and other top officials exert over bureaucrats, there are few problems between chiefs and their subordinates within executive agencies.

The power of high ranking officials over the rest of the bureaucracy is greater in developing than in First World countries. In the former, despite the recent implementation of civil service systems, high ranking officials have ample power to sanction their subordinates. In fact, it is easy to fire or remove them from their posts. The high ranking officials' power gives them greater capacity to control the middle and low level bureaucrats.

On the other hand, bureaucrats, in principle, also respond to legislators' commands. However, legislators belong to another branch of government. Consequently, members of Congress are not the direct superiors of bureaucrats. Civil servants' jobs depend more on top-level officials than on legislators. Even in the case that Congress

wants to remove certain bureaucrats from an agency, the process is neither easy nor immediate. Moreover, while legislators delegate authority and give commands to the bureaucracy, congress people do not have daily contact with officials. In contrast to appointed officials, legislators cannot closely oversee the work of the bureaucracy. Additionally, the asymmetry of information prevailing between legislators and bureaucrats is greater than the one that exists between top-level officials and lower echelons of the bureaucracy. Thus, it is easier for middle and low level bureaucrats to hide information and deceive legislators than it is to do with top-level officials. Furthermore, legislative power is decentralized; there is no single person in command of Congress. Therefore, the oversight of the bureaucracy has to be approved by members of committees and, in many cases, by the entire Congress. This process can be an obstacle to legislators' efforts to constrain and sanction bureaucratic work. In sum, since bureaucrats and legislators are from different branches of government, and because of the asymmetry of information and the Congress' decentralized power, legislative control over the bureaucracy is weaker in comparison to the control and influence exerted by the president and top level officials.

Although legislators do not have the same effectiveness as the executive branch in checking public officials, congressional oversight is of greater importance for the quality of democracy. This special significance arises from the checks and balance system that exists in democratic regimes. Without effective legislative constraints the executive branch, including the president and appointed officials, could accomplish their policy goals more rapidly, but with unlimited power. That is, the president and top officials

could guide their subordinates to not only produce efficient outcomes, but also to commit questionable acts and use their power for their own benefit. The unrestricted power of bureaucrats could lead to governmental abuses and authoritarian practices. It is known that dictators in authoritarian regimes –at least during their heydays-- had strict control over the bureaucracy. Presidents during the PRI regime, for instance, managed to maintain pervasive power in great part because Congress did not exert any control over the bureaucracy. The absence of congressional checks resulted in frequent bureaucratic misuses of office. In theory, legislative supervision of the bureaucracy can prevent, stop and sanction the abuse of power by officials. Legislative checks on executive agencies' actions, then, serve not only to improve the efficiency of government but also to constrain bureaucrats' power. That is why legislative control over the bureaucracy is so important for democratic regimes. The dissertation therefore assesses democracy's effects on bureaucratic behavior.

ORGANIZATION OF THE DISSERTATION

The dissertation is organized as follows: the first part of the next chapter analyzes the three most important approaches to study the bureaucratic-legislative relationship. First, the bureaucratic autonomy approach is examined. This framework argues that there is an administrative state in which bureaucracy has the upper hand and legislators only have marginal influence on the policy arena. By contrast, the legislative dominance approach states that legislators exert effective control over the bureaucracy through the

establishment of diverse institutional mechanisms such as policy procedures and statutes. Finally, interactive models establish a “balance” between the two previous approaches. According to this framework, public officials and legislators have the capacity to influence each other. The second part of this chapter develops a theory along this line of reasoning. The theory states that there is bidirectional influence between legislators and bureaucrats in which the former use formal rules to control public officials, while the latter utilize informal means to influence members of Congress.

Chapter 3 serves as a link between the theory chapter and the case studies. The chapter assesses which theoretical approach analyzed in the previous chapter (bureaucratic autonomy, legislative dominance, and interactive models) concerning the impact of democratization on the bureaucratic-legislative relation. In addition, it assesses which approach seems to better capture the relationship between the public officials and legislators in Mexico. The last part of the chapter examines an important congressional mechanism used to exert control over the bureaucracy: investigative committees.

In chapters 4 and 5 I carry out in-depth analyses of budgetary and health policies respectively. Chapter 4 investigates the budgetary process that involves officials of the Secretaría de Hacienda y Crédito Público and legislators of the Budget and Hacienda committees. The case study explains how democratization allowed the transformation of budgetary rules since 1997. In particular, the chapter documents how legislators have established checks and controls in legislation, especially in the rules governing the budget information available to Congress and the allocation of government resources. Despite these restrictive changes, the chapter shows that, in practice, Hacienda officials continue

to have ample discretion in the implementation of the budget by continuously transgressing fiscal legislation.

Chapter 5 examines the modification of diverse General Health Law stipulations since the PRI lost the majority in the Chamber of Deputies. As in the case of Hacienda, legislators have introduced constraints and limits to rein in bureaucratic maneuvering over diverse health policies. The analysis reveals, however, that while certain rules governing important health areas have changed, the General Health Law continues to grant ample discretion to the Department of Health officials in other vital aspects as in the case of nutrition programs. Furthermore, the chapter uncovers that legislators are not very interested in supervising the work of the Department of Health since they do not ask the Auditoría Superior de Hacienda (Federal Auditing Office) to carry out many audits on this agency's programs. The last sections of chapters 4 and 5 explain why members of Congress tolerate bureaucratic leeway in the implementation of budgetary and health policies. Legislators deliberately allow bureaucratic maneuvering because they need governmental resources or favors to distribute among their constituents and cronies. By granting resources and favors, public officials obtain legislators' consent to implement public programs at their convenience.

The concluding chapter summarizes the main findings of the dissertation and putting together the theoretical model with the case studies. The chapter also develops the theoretical implications of the study and explains why the lack of effective legislative control over the bureaucracy affects the quality of democracy in Mexico. In addition, the bureaucratic-legislative relationship in Mexico is compared with those of three other

Latin American countries. Finally, the last section of the chapter explores some ideas for future research.

CHAPTER 2: MUTUAL INFLUENCE: A CLIENTELISTIC THEORY OF BUREAUCRACIES IN DEVELOPING COUNTRIES

Do politicians control bureaucrats? Multiple studies have tried to answer this question through diverse approaches and methods. The great majority of these analyses, focused on First World countries, have tried to provide a conclusive response to this important question. Nonetheless, despite all academic efforts it is still not clear whether politicians are able to constrain public officials or whether bureaucrats enjoy autonomy to pursue their own goals and interests. In the case of developing countries, with few exceptions in the literature, the topic remains unexplored. As a result, it is unknown whether democratization increases legislative control over the bureaucracy.

In the first part of this chapter I review the three most important approaches that examine the congressional-bureaucratic relationship. First, Weber and his followers postulate the bureaucratic autonomy approach. According to this framework, bureaucrats dominate the policy arena while legislators have only marginal influence on decision-making. In the second approach, rational-choice institutionalists claim the opposite, namely legislative dominance. These scholars argue that legislators have the interest and capacity to control the bureaucracy through well-crafted institutional incentives and constraints. This approach acknowledges the informational advantage of bureaucrats, but claims that legislators can ultimately control bureaucrats' careers. Officials, according to this approach, are thus compelled to use their informational advantage to contribute to legislators' goals.

Finally, a third approach has begun to emerge, which strikes a balance between those two contending positions. This is an incipient approach, however, and not nearly as well developed as the other two. Interactive models state that both bureaucrats and politicians have the ability and means to influence each other. The second part of the chapter develops a theory that follows this last line of reasoning. This theory applies well in developing countries with fledgling democracies and states that not only is there asymmetry of information between legislators and bureaucrats, but also a disadvantage in the control of governmental resources. Public officials deliver such resources and do special favors for legislators in exchange for allowing discretion to implement policies. In this way, bureaucrats neutralize legislators' constraints and checks established in laws. Accordingly, there is bidirectional influence between bureaucrats and legislators in which the latter utilize formal rules to control officials, but the former utilize informal means to influence lawmakers. In sum, the theory explains why democratization allows legislators in new democracies to enact strict laws, but does not eliminate informal practices that hinder effective congressional control over public programs. After explaining the logic and argument of the theory, the chapter describes in detail the stages in which bureaucrats and legislators interact. The chapter ends with conclusions.

THEORETICAL FRAMEWORKS FOR THE STUDY OF BUREAUCRATIC-LEGISLATIVE RELATIONS

As mentioned above, there are two well-developed approaches to study bureaucratic-legislative relationships. These frameworks, however, present a common

problem in that both assume a unidirectional flow of authority from one actor to another. While the bureaucratic autonomy approach states that public officials dominate the policy-making arena through their technical expertise and organizational knowledge, the legislative dominance framework claims that legislators control the bureaucracy through the establishment of institutional mechanisms. Accordingly, neither approach allows for the possibility of a balance of power between the two actors. Furthermore, while both approaches acknowledge that there is an asymmetry of information between these actors that favors bureaucrats, they fail to notice that public officials in developing countries frequently have control over the governmental resources that legislators need to enhance their careers.

In contrast, my theory, based on the line of reasoning of interactive models, states that given extensive executive branch intervention in economic and societal spheres in developing countries, bureaucrats exert leverage over legislators through the delivery of governmental resources. In sum, the mutual influence theory argues that, while legislators influence bureaucrats through the establishment of checks and constraints in legislation, bureaucrats exert leverage by delivering valuable resources that members of Congress need in order to advance their political careers. The next section reviews the main tenets and limitations of the previous approaches and explains why the mutual influence theory is better for examining legislative-bureaucratic relations in developing countries.¹

¹ The specific hypotheses of each approach for new democracies are developed in the next chapter.

MAX WEBER AND THE BUREAUCRATIC AUTONOMY APPROACH

In his seminal essay about bureaucracy, Max Weber (1946) pointed out that the relationship between politicians and bureaucrats is asymmetrical. While politicians hold the legal authority to rule, bureaucrats have valuable expertise and information about how to carry out governmental tasks. Weber said: “the ‘political master’ finds himself in the position of the ‘dilettante’ who stands opposite the ‘expert,’ facing the trained official who stands within the management of administration”. Politicians are thus “powerless opposite the superior knowledge of the bureaucratic expert” (1946: 232, 234). Consequently, the foundation of bureaucratic power rests on the expertise and information that bureaucrats manage. Bureaucrats, Weber stated, take advantage of their expertise and knowledge to increase their superiority (1946: 233). In fact, bureaucrats tend to monopolize all kinds of valuable information that could put their power at risk.

Political scientists have drawn on Weber’s argument to develop modern approaches to study the relationship between bureaucrats and politicians (Huber and Shipan 2002; Miller 2005). By taking into account the public officials’ advantage in information and expertise, scholars analyze whether or not politicians are able to control bureaucrats. In this vein, a part of the political science literature argues that there is an ‘administrative state’ in which public officials dominate the realm of public policies (e.g. Waldo 1948; Marx 1957; Redford 1969; Putnam 1975; Dogan 1975; Dodd and Schott 1979; Gruber 1987). According to this approach, countries began to increase the size of their administrative apparatus during and after the two world wars (especially WWII). In order to face the challenges of war, governments created multiple agencies to coordinate

and satisfy the supplies required. After the international conflicts were over, states implemented numerous programs to deal with the subsequent economic crises. The creation of new agencies, combined with the implementation of policies to lessen the effects of war, boosted the administrative role of the state in economy and society (Dodd and Schott 1979).

With their new structure, governments in the twentieth century acquired an ability to plan, innovate, and implement policy that had not been developed previously (Carpenter 2001: 5). States not only continued to administer public services, but they also started to promote social and economic growth. By planning and programming budgets, implementing welfare policies, and by nationalizing, protecting and subsidizing industries, governments have deeply intervened in economic, social and even cultural arenas (Dogan 1975: 5; Suleiman 1974; Dodd and Schott 1979; Hall 1986). As a result of this state intervention, governments have increased their size, governmental programs have multiplied and administrative procedures have become very complex. In the United States, for example, “in 1933, there was one federal civil servant for every 280 Americans; by 1953 there was one for every 80 [...] While the gross national product [...] grew by a factor of six in this period, the expenditures of the federal government grew more than twice as fast as the economy – some 15 times” (Dodd and Schott 1979: 34).

According to the proponents of the bureaucratic autonomy approach, the expansion of the state and its ever more pervasive influence on society changed the balance of power in executive-legislative relations. By allowing the growth of the bureaucracy and by granting it ample policy authority to carry out programs, legislatures

gave birth to a colossal administrative state. Over the decades the bureaucratic apparatus acquired structures, personnel, information and expertise that gave them a great advantage over the other branches of government. Moreover, the complexity of the new administrative tasks produced a 'government overload' that required the recruitment of trained bureaucrats (Crozier, Huntington, and Watanuki 1975; King 1975; Kerwin 1999). The officials' administrative skills, expertise and control over policy information produced an imbalance of power between members of Congress and the bureaucracy. Legislators quickly realized that they lacked the time and expertise to oversee and monitor the work of public servants and therefore felt compelled to delegate ample policy making authority to bureaucrats. As a result, politicians retained scant leverage over the policy making process, and consequently there is bureaucratic dominance in the realm of public policies. A large part of the government's decision making, according to this approach, depends not on politicians, but on unelected officials and their clienteles (Huntington 1965; Lowi 1969; Aberbach and Rockman 1977; Peters 1981; Aranson, Gellhorn and Robinson 1982; Mashaw 1985). In sum, given the government's size, its complexity, and the superiority of the officials in information and expertise, the bureaucracy became uncontrollable.

A representative example of the administrative state approach is given by Dogan (1975), who argues that top civil servants in European democracies significantly increased their power after WWII. Dogan claims that the growth in the size of bureaucracy and the parliaments' loss of power account for this change. Parliaments lost power for two reasons: First, they allowed the executive agencies to establish

administrative regulations. The implementation of such regulations gave great authority to bureaucrats. As a result, politicians lost significant leverage in the decision-making process. Second, given the rigidity of parliamentary procedures, the lack of technical capacity and the speed required for tackling problems, legislators gradually abdicated their power to intervene in the economy. Members of parliament, for instance, transferred the responsibility to draft the national budget to administrative agencies. Because legislators only make minor changes to agency budgets, Dogan said parliaments turned into registry offices (1975: 7-8). Examining the American case, Dodd and Schott (1979) argue the decentralization of power within Congress weakened legislators' ability to control the bureaucracy. The creation of multiple subcommittees caused inter- and intra-committee conflict, which consequently produced a decline in congressional bargaining *vis-à-vis* agencies, lack of adequate information about policies, and legislative dependence on interest groups.

By contrast, Carpenter (2001) contends that politicians' delegation of authority to officials is not the source of bureaucratic power, but rather officials have earned this power. In Carpenter's view, bureaucratic autonomy emerges when executive agencies develop unique organizational capacities and build a strong reputation for providing unique public services to diverse society networks. By constructing a positive reputation among societal groups and an independent base of power, agencies obtain political legitimacy that allows them to enact their own policies without the consent of Congress or the president.

The claim that the bureaucracy was autonomous, that public officials were impervious to political influences, and that the administrative state could not be constrained was widely accepted among scholars until the late 1970s. Political scientists concentrated their investigations on determining the causes of bureaucratic autonomy and on investigating to what extent public officials were able to produce effective policy outcomes. But in the early 1980s, rational-choice institutionalist scholars began to challenge the arguments of the bureaucratic autonomy approach and develop a new paradigm for studying bureaucratic-legislative relations. This approach is examined in the next section.

POLITICAL CONTROL OF THE BUREAUCRACY

The most influential studies of bureaucratic-legislative relations in the U.S. and other industrialized countries published in the last twenty five years challenge the existence of the administrative state and put forth a congressional dominance approach. These studies apply the principal-agent framework from economics, which is a modeling technique, to analyze how politicians tackle the asymmetry of information and expertise as highlighted by Weber (Miller 2005). In this model, legislators act as principals while bureaucrats play the role of agents. In other words, legislators exert control over bureaucrats. The latter are subordinated to the former's commands.

In order for members of Congress to order bureaucrats to perform a task, legislators need to delegate power, authority and resources to bureaucrats. Public

officials then carry out policy programs as instructed by lawmakers. The problem in this relationship is that bureaucrats frequently have incentives not to behave as legislators want. Using a principal-agent framework, scholars have analyzed the ways in which legislators may induce bureaucrats to comply with their directives. The means by which legislators keep bureaucrats under control is through the establishment of institutional mechanisms. Using this approach, political scientists examine how formal rules and institutional mechanisms limit bureaucrats' behavior and align their incentives with those of the legislators.

According to the principal-agent framework, there are three general categories of informational problems in the bureaucratic-legislative relationship that favor appointed officials (Huber and Shipan 2002: 26-27). The first category is general uncertainty about the future. This problem refers to the legislators' inability to predict events. Politicians, for example, are not certain whether their actions will solve problems. The second category is private information. This problem arises from the asymmetry of information between bureaucrats and legislators. Since bureaucrats have private information that politicians lack, officials know more about the problems, their solutions, and their effect on certain policies. Clearly, officials are in a better position to decide which course of action will be to their benefit. Conversely, given that politicians do not have complete information, they are not certain whether the policies delegated to bureaucrats will achieve the desired goals. Stated differently, the asymmetry of information puts legislators at risk of establishing a policy that will not solve problems or that could go

against their interests. Thus, legislators frequently face an adverse selection problem.² The last informational problem in the bureaucratic-legislative relation is the officials' unobservable behavior. Since it is very difficult and costly for legislators to monitor public officials' actions, bureaucrats have an incentive to stray from politicians' commands and pursue their own interests. As a result, members of Congress are never sure to what extent bureaucrats are complying with their orders. The difficulty in observing the officials' actual behavior leads to a situation of moral hazard. This problem occurs when bureaucrats face little risk of being caught if they violate lawmakers' commands. In this situation, officials tend to act differently than they would if politicians were able to observe their behavior. Hence, bureaucrats' low probability of being monitored and sanctioned induce them to act in more risky ways, such as departing from legislators' instructions and carrying out actions that help them to achieve their own objectives.³

To cope with the asymmetry of information and prevent undesirable policy outcomes, politicians (principals) establish different institutional mechanisms depending on the informational problem they face. For instance, if members of Congress realize bureaucrats have ample leeway to carry out a certain policy, legislators can include procedural provisions in the legislation to reduce public officials' discretion.

² Adverse selection is frequently used in the economics literature to explain insurance problems. For instance, people who anticipate or have health problems are more likely to sign up for health insurance than the average person. Hence, "adverse risks" self select, skewing the risk pool.

³ In the insurance literature, moral hazard prevails when insurance protection induces an individual to act more risky than a person that does not hold insurance.

There are two kinds of institutional tools to control the bureaucracy: *ex ante* mechanisms (e.g. legislation and administrative statutes) and *ex post* mechanisms, such as congressional hearings and bureaucratic reports.⁴ Often, adherents of this institutional approach argue that the more effective tools to control bureaucrats are legislation and statutes; that is, *ex ante* institutional instruments. Legislation limits what bureaucrats can and cannot do in the design and implementation of public policies and programs. Accordingly, analysts claim that members of Congress utilize legislation to hinder the bureaucrats' tendency to avoid policy directives. Since officials are regarded as the instruments for applying rules, and since these rules are backed up—ultimately—by litigation, scholars assume that bureaucrats respect all the constraints and limits stipulated in legislation.⁵ Hence, every time that Congress establishes constraints in legislation, bureaucratic behavior is constrained in practice. Therefore, political scientists who apply this approach –also known as the institutional approach for political control of bureaucrats– presume that a change in formal rules (legislation) will lead to a change in bureaucratic behavior.

Principal-agent analyses applied to bureaucratic-legislative relationships build their explanations on four assumptions.⁶ First, legislators and bureaucrats frequently have different preferences and pursue divergent objectives. This divergence causes

⁴ Principal-agent models generally assume that *ex ante* and *ex post* instruments are substitutes. That is, politicians prefer *ex ante* controls when legislative oversight over public programs is deficient. Conversely, politicians implement *ex post* mechanisms when they can rely on these tools to control bureaucrats (Huber and Shipan 2006). However, some authors argue that both institutional tools are complements (see Ting 2001; Huber and Shipan 2006).

⁵ For an exception see Huber and Shipan (2002: 92-97). Their model takes into account bureaucratic noncompliance with legislative statutes.

⁶ Miller (2005: 205-206) argues that the canonical principal-agent model originally created by economists has six core assumptions: asymmetry in preferences, agent impact, information asymmetry, initiative that lies with a unified principal, backward induction based on common knowledge, and ultimatum bargaining.

conflict in the relationship between the agencies and Congress. If members of Congress, or at least a majority of them, share the same preferences and objectives, there will be few problems in the relationship (Huber and Shipan 2006: 257). Second, there is asymmetric information and expertise, which favors public officials. Bureaucrats have more information and expertise than legislators on how to attain the desired policy outcomes (Niskanen 1971; Miller 2005; Huber and Shipan 2006). Third, the principal-agent framework takes the Weberian state as given. The Weberian state is defined as a hierarchically integrated set of administrative organizations with the following characteristics: rule-governed decision making; offices with no overlapping jurisdictions ordered by formal rules (laws or administrative regulations); recruitment of officials through a meritocratic system, and predictable career ladders. Bureaucratic work has an impersonal and rational character and presupposes a separation of the private sphere from public office. In addition, the Weberian state is highly institutionalized: officials' duties are well defined by rules and bureaucrats closely comply with these norms (Weber 1946; Evans and Rauch 1999).⁷ Thus, the underlying assumption of these studies is that the state consists of a professionalized body that is hierarchically organized. Under this theory, bureaucrats are rule applicators that carry out the administrative functions of the state (Grindle 1977).

Finally, the principal-agent framework assumes a unidirectional flow of authority from principal (legislators) to agents (bureaucrats).⁸ Legislators exert influence over

⁷ For additional characteristics see Weber (1946).

⁸ Describing the canonical principal-agent model, Sappington (1991: 47) argues that "the principal is endowed with all of the bargaining power in this simple setting, and thus can make a 'take-it-or-leave-it'

bureaucrats but not the other way around (Krause 1999; Moe 2006). Thus, politicians can, in principle, control officials either through legislation or through other institutional mechanisms. By contrast, bureaucrats are not able to influence legislators by any means. Because of this assumption, scholars that apply principal-agent theory tend to call it the ‘congressional dominance’ approach. Followers of this approach claim that the persistence of ample bureaucratic leeway to design and implement public policies is explained either because officials are responsive to legislator’s interests — so there is no need to reduce their discretion — or because there are neither contextual nor institutional factors that allow for the enactment of low-discretion legislation (Weingast and Moran 1983; Weingast 1984; Huber and Shipan 2002).

Accordingly, Weingast (1984) rejects the bureaucratic dominance approach and argues that Congress is able to control the bureaucracy even without systematic oversight. Legislators drive policymaking by allocating resources to those agencies that deliver higher benefits to legislators’ constituents; conversely, they impose sanctions on those agencies that fail to do so. Consequently, Weingast claims that the lack of legislative oversight does not indicate bureaucratic dominance, but rather that officials are fulfilling legislators’ electoral needs. Similarly, McCubbins and Schwartz (1984) state that legislators deliberately refrain from checking policies since the monitoring of bureaucracies slows down the achievement of their political goals. Instead of using “police patrols,” lawmakers establish “fire alarms”. The latter is a system that is comprised of rules, procedures and informal practices that allow citizens and interest

offer to the agent”. Making a similar point Krause (1999: 10) contends that principal-agent models assume that “elected officials impose a natural hierarchy on bureaucratic agencies”.

groups to oversee bureaucrats' activities. Thus, the fire alarm system better serves legislators' goals, and reduces the costs of oversight. Elaborating on this argument, Lupia and McCubbins (1994) assert that fire alarms can be inefficient if legislators do not learn from this oversight activity. The conditions in which the fire-alarm system can be efficiently implemented are: a) when bureaucrats are sanctioned for lying to political authorities; and b) and when legislators and public officials have similar preferences regarding outcomes. If these conditions are met, Lupia and McCubbins assert, bureaucrats will act according to legislators' interests. Otherwise, delegation is equivalent to legislative abdication.

McCubbins, Noll and Weingast (1987, 1989) assert that congress people include administrative procedures in legislation as a means to control bureaucracies. Procedures are instructions that "describe the decision making process that must be followed during agency policymaking and implementation" (Huber and Shipan 2002: 45). Administrative procedures thus increase the likelihood that bureaucrats will comply with politicians' directives. Examples of procedural instructions are the obligation of agencies to send policy reports to the legislature, the enfranchisement of society groups in decision-making processes, and deadlines for program implementation (Huber and Shipan 2002: 56-59). In this way, procedural instructions reduce the asymmetry of information between legislators and bureaucrats, limit agencies' options, and ensure that agencies will favor interest groups that support legislators. In contrast, Moe (1989, 1990) challenges the usefulness of administrative procedures. To Moe, procedures divide authority by imposing checks on agencies and allowing rival groups to participate in agency decisions.

As a consequence, these formal rules reduce the agencies' efficiency and impede an effective functioning of the bureaucracy.⁹

Other studies underscore the importance of additional institutional factors in their analysis. Appointments and administrative reorganizations, for instance, are other institutional instruments used to control bureaucrats (Laver and Shepsle 1994; Peters 1997; Chang 2003). Similarly, congressional professionalization, legislative vetoes over agencies' internal regulations, and judicial review also tend to reduce bureaucratic discretion (Ethridge 1984; Aberbach 1990; Squire 1992; Shipan 1997; Carey, Niemi and Powell 2000; Canes-Wrone 2003). Other scholars argue that political contexts also determine the level of legislative control over the bureaucracy. In this vein, some analysts claim that divided governments tend to produce policy conflict, and consequently increase legislative control over the bureaucracy (Epstein and O'Halloran 1999; Martin 1997; McCarthy and Razaghian 1999; Volden 2002). Finally, the technical complexity of policy issues is also said to determine the level of authority delegated to bureaucrats (Bawn 1995; Epstein and O'Halloran 1999).

John D. Huber and Charles R. Shipan's 2002 book *Deliberate Discretion?* synthesizes previous analyses and advances a model that explains why some legislatures enact very detailed and specific bills (low-discretion legislation), whereas others pass ambiguous laws (high-discretion legislation) that grant enormous policymaking latitude to bureaucrats. By examining the choice between specific versus vague statutes across First World parliamentary systems and the U.S. states, Huber and Shipan (H&S

⁹ Many authors have found empirical evidence supporting the congressional dominance arguments (e.g. Ferejohn and Shipan 1989; Wood and Waterman 1991, 1994; Volden 2002).

hereafter) uncover how differences in the political and institutional features of these systems affect the design of legislative statutes and, consequently, bureaucratic discretion. Based on previous studies, H&S claim that four factors account for the level of discretion in legislation: the degree of policy conflict between the legislators who design policy statutes and the bureaucrats who implement policies; the bargaining environment in which legislation is approved; Congress' technical capacity to enact detailed statutes; and additional institutional features of the political system (non-statutory factors).

Legislative control of bureaucracies depends, to a great extent, on the level of policy conflict between legislators and public officials (Epstein and O'Halloran 1999; H&S 2002). When legislators' and public officials' preferences and policy goals converge, members of Congress tend to delegate ample leeway to executive agencies because there is no reason to suspect that bureaucrats will produce policy outcomes unfavorable to legislators. In contrast, when legislators' goals diverge from those of bureaucrats, legislators worry that officials will not execute policies as they were designed. In order to prevent unwanted outcomes, members of Congress will reduce bureaucratic discretion by writing specific legislation that provides little room for bureaucratic maneuvering.¹⁰

¹⁰ Legislative studies usually associate policy conflict between Congress and the executive branch with the existence of divided government (e.g. Mayhew 1991). The logic is that when the legislature is controlled by one party and the executive branch by another, preferences and policy goals between executive agencies and Congress tend to differ to a greater extent than when just one party is in control of the executive and legislative branches (unified government). Such divergence of preferences leads legislators to write detailed legislation in order to constrain public officials' discretion (Epstein and O'Halloran 1999; H&S 2002). Thus, under divided government, more detailed legislation is expected and, consequently, less bureaucratic discretion will be allowed.

The bargaining environment refers to whether the legislature is divided. According to H&S, when divided governments occur in bicameral systems, “bicameral conflict is likely to be greater with a divided legislature (i.e. when each chamber of the legislature is controlled by a different party) than with a unified legislature (when one party controls both chambers)” (2002: 151). Even if legislators would like to reduce bureaucrats’ leeway in the execution of policy programs, they require certain factors such as technical knowledge and assistance of professional staff, among other resources, to write detailed legislation. Together, these factors form legislative capacity. All else being equal, the higher legislative capacity is, H&S argue, the less leeway allowed in legislation. Finally, H&S argue that in addition to statutes, legislators can rely on features of the political environment to achieve the policy outcomes they want. These features are non-statutory factors that encourage the observation of laws. Examples of non-statutory factors are legislative veto of agencies’ internal rules and the power of courts to enforce the compliance of laws.

Accordingly, the greater the level of policy conflict between lawmakers and bureaucrats, the higher the likelihood that legislators will constrain bureaucrats through laws. Therefore, divided governments (where opposition parties control both chambers of Congress) tend to reduce bureaucratic discretion. Similarly, the higher the level of Congress’ legislative capacity, the greater the chance legislators will enact low-discretion legislation. Finally, bureaucratic discretion is lower in political systems where non-statutory factors are established. In sum, public officials are more constrained by laws when policy conflict is high, the executive branch does not control any given legislative

chamber, Congress has the technical capacity to write low-discretion legislation, and when courts or other institutions may also constrain bureaucratic leeway.

By testing their model on the U.S. states and many European countries, H&S show how their explanatory variables systematically account for the variation of bureaucratic discretion in Medicaid and labor legislation, respectively. Empirical evidence demonstrates that political and institutional contexts determine, to a great extent, how much authority legislators delegate to bureaucrats and, consequently, how much bureaucratic discretion laws allow for. Due to its explanatory power and compelling evidence, H&S's book is considered state of the art in the study of bureaucratic-legislative relations.

INTERACTIVE MODELS

Although most studies that apply the principal-agent framework elaborate their arguments following the assumptions described above (different preferences between principals and agents, information asymmetry, Weberian state, and unidirectional authority), there are a few authors who relax the application of one or more of these assumptions in their analyses. As a result, as the asymmetry of influence in the bureaucratic-legislative relationship diminishes, Congress is seen as less clearly dominant, while bureaucrats are depicted as having great influence on legislators. This approach, however, has not been thoroughly developed. In fact, it is an incipient line of reasoning, advanced in just a few disparate articles.

In contrast to the bureaucratic autonomy and legislative dominance approaches, this framework asserts that neither bureaucrats nor legislators have complete control over the other. The few adherents of this inchoate approach suggest that both players in the bureaucratic-legislative relation have some resource that the other needs (Arnold 1979). While legislators frequently ask for benefits or favors for themselves or their constituents, bureaucrats demand discretion in laws or an increase in the amount of funds that legislators allocate to public programs. Accordingly, this approach asserts that legislators and bureaucrats have the capacity and means to influence the other. Consequently, both actors can, to some extent, extract benefits from each other. Stated differently, they are mutually dependent. For this reason, there is a constant transaction of benefits between officials and members of Congress.

Following this general line of reasoning, Arnold (1979) examines the geographic allocation of public expenditures in three federal programs in the U.S. and uncovers the interaction between members of Congress and top-level bureaucrats. His main argument is that public officials distribute benefits strategically among congressional districts in order to maintain their supporting coalitions (Arnold 1979: 207). Bureaucrats thus disproportionately allocate pork to legislators who have jurisdiction over their programs, especially to those lawmakers who vote for the authorization and disbursement of funds. In exchange for such benefits, legislators maintain or increase bureaucrats' budgetary authorizations for subsequent years. In this way, Arnold states that the geographic allocation of public expenditures is a mutually rewarding system in which both actors receive benefits and influence each other.

Similarly, Krause (1999) criticizes the assumed “natural hierarchy” of politicians over bureaucrats in principal-agent models, and stresses that these players are strategic and dynamic.¹¹ Based on the work of Barnard (1938) and Simon (1947), Krause builds a ‘dynamic systems model of administrative politics’ in which agencies, Congress, and the president interact in an endogenous way. That is, the relation between these actors is interrelated. Krause’s model thus implies that the players are not in isolation, but are mutually adaptable and consequently influence each other. The extent of influence between political principals (i.e. president and Congress) and agents is determined by the institutional design of the agency, the amount of information asymmetry benefiting the agency, and politicians’ interest in a given policy area. By analyzing two regulatory agencies in the U.S., Krause argues that while presidents and Congress frequently influence each other, they do not always succeed in exerting effective control over the bureaucracy. For their part, public officials do not simply react to politicians’ actions, such as budgetary cuts, but they also initiate action to shape the political environment to reach their objectives. In this way, Krause asserts that the relationship between the president, Congress and the bureaucracy is a “dynamic system in which institutions interact with one another in the implementation of public policy” (1999: 21).

In the same way, Moe (2006) argues that the principal-agent theory’s premise that information asymmetry is the main source of bureaucratic power is incomplete, as

¹¹In addition, Krause criticizes the principal-agent assumption of no interaction between political principals. That is, principals have a separate, independent effect on bureaucratic agencies. For instance, if it is acknowledged that both the president and Congress control the bureaucracy (i.e. both are principals), analyses using the principal-agent theory do not consider that Congress may pressure the president in order to modify bureaucrats’ behavior (Krause 1999: 13, 29).

bureaucrats also have political power based on their ability to affect the elections of political authorities. In his study of public school teachers in the U.S., Moe finds that officials are able to influence the election of politicians and what choices they will make in office. Thus, not only do politicians exert political control over bureaucrats, but there is reverse control as well: that is, by agents (bureaucrats) over principals (politicians). As a result of bureaucrats' political power, elected authorities may not exert strict control over their agents. In fact, since bureaucrats influence the election of principals, the latter may decide to favor the former through policies or funding.

In sum, the two main approaches to study bureaucratic-legislative relations, bureaucratic autonomy and the principal-agent theory, share two assumptions. First, there is asymmetry of information and expertise that favors the bureaucracy. Followers of the bureaucratic autonomy approach argue that such asymmetry is the source of bureaucratic dominance over the policymaking process. While institutional scholars accept this claim, they state that legislators can counterbalance bureaucrats' informational advantage through the establishment of institutional mechanisms and in this way establish their own dominance. Second, both approaches assume that only one actor has control over the other. That is, both frameworks presuppose a unidirectional flow of authority from one actor to the other. Furthermore, both approaches do not allow for strategic interaction or the existence of mutual influence between bureaucrats and politicians. In the case of the bureaucratic autonomy approach, public officials dominate the policy arena. According to this framework, legislators do not have significant influence on the government's decision-making process and therefore, most of the time members of

Congress only ratify the bureaucracy's policies. On the other hand, principal-agent models assume that the bureaucracy is under congressional control. In this approach, although bureaucrats may have exert some influence to advance their interests, they are bounded by legislation and other rules. Hence, legislators have much more influence than officials and can control them.

In contrast, interactive models depict a balance between public officials and legislators. According to this framework, both actors have resources to influence each other. Given that bureaucrats and politicians have control over resources that the other needs, both actors are mutually dependent. The theory presented in the second part of the chapter builds on this line of research. I argue that in developing countries there is bidirectional influence embedded in bureaucratic-legislative relations: legislators exert formal control over the bureaucracy, yet at the same time, public officials have informal leverage over members of Congress. The theory is fully elaborated in section four. It is first necessary, however, to analyze the predictions made about the effects of democratization, as based on each of the three approaches.

THEORETICAL EXPECTATIONS: THE IMPACT OF DEMOCRATIZATION ON BUREAUCRATIC-LEGISLATIVE RELATIONS

As stated above, there are two main frameworks that examine the relationship between the bureaucracy and the legislature. Since each one of these approaches studies the power relationships between public officials and legislators in First World countries, they do not examine in depth the effect of democratization on such interactions. But

when these theories are applied to developing countries, the impact of democracy on bureaucratic-legislative relations has to be examined. What are the theoretical expectations of each approach regarding democratization? Do these frameworks predict greater legislative control over the bureaucracy in democratic regimes? The analysis of the theoretical predictions shows why the bureaucratic autonomy and the legislative dominance approaches have problems explaining the bureaucratic-legislative relationship in recent democracies. Furthermore, the overview shows why the mutual influence theory better accounts for the power relationship between public servants and members of Congress in new democracies.

BUREAUCRATIC DOMINANCE PREDICTIONS

The bureaucratic dominance approach does not predict a significant increase in legislative control over the bureaucracy with the arrival of democracy. According to this framework, bureaucrats dominate the policy arena due to the expansion of the administrative apparatus, the implementation of hundreds of public programs, and the asymmetry of information. Thus, bureaucratic dominance rests on characteristics of the state, not the political regime; therefore, it is unaffected by a democratic transition. Accordingly, democracy does not bring a greater balance between the executive and legislative branches because this type of regime does not, per se, reduce the asymmetry of information and expertise between bureaucrats and legislators. As a consequence, legislators' participation in public policies remains marginal. Democracy, then, neither impedes the enlargement of the administrative apparatus nor provides legislators with the

technical capacity to control the bureaucracy. In contrast, bureaucrats—regardless of the political regime—have time and expertise to design and carry out dozens of public programs. Hence, for the proponents of this approach, there is no doubt about who governs complex societies since “the modern political system is essentially ‘bureaucratic’—characterized by ‘the rule of officials’” (Putnam 1975: 87).

The bureaucratic autonomy approach’s prediction that democracy has little effect on the bureaucratic-legislative relationship is questionable. Democratic regimes allow for the participation of more political actors in the policymaking process. Legislatures in consolidated democracies play a relevant role in the crafting of public policies and programs. Accordingly, members of Congress are able to initiate their own bills, or modify and reject presidential bills. Legislators, for instance, can make substantial changes to the federal budget. These changes can range from the authorization of new taxes to the cancellation of funds for certain programs. Given the legislatures’ policymaking authority in democracy, top-level officials have to negotiate the approval of legislation with legislators. For their part, bureaucrats offer, among other things, their technical knowledge and expertise to attain the objectives established by legislators. Public servants may also offer government resources to congress people in order to maintain the status quo in legislation or to include certain stipulations that benefit executive agencies. Consequently, legislators and bureaucrats frequently enter into a bargaining process where both actors concede demands to the other. Because bureaucrats and members of Congress have authority and resources to influence each other, the

bureaucratic autonomy claim that bureaucracy has complete control over the policy realm is, at best, limited.

LEGISLATIVE DOMINANCE PREDICTIONS

In contrast to the bureaucratic autonomy approach, legislative dominance predicts that democratization leads to effective legislative control over the bureaucracy. On the one hand, rational choice institutional scholars who have used this framework assume that bureaucrats in democratic regimes are constrained by laws. That is, they presuppose that under democracy there is strict adherence to the rule of law and that any bureaucratic deviation from it is severely sanctioned by the judiciary (Huber and Shipan 2002: 96). For the followers of this framework, then, there is no doubt that legislators exert effective control over the bureaucracy by establishing limits and checks in legislation. Based on this assumption, Wood and Waterman claim that “the evidence for active political control is so strong that controversy should now end over whether political control occurs” (1991: 822). This approach also presupposes that bureaucrats respond to legislators’ preferences established in laws since it is assumed that there is strict bureaucratic compliance with formal rules. Hence, this framework presumes that there is a link between politicians’ preferences and policy outcomes (Huber and Shipan 2002: 25).

On the other hand, the legislative dominance framework presupposes that democratic systems, more than other forms of government, allow for the establishment of institutional factors and political contexts that promote greater congressional control of the bureaucracy. Democracy, for instance, permits the existence of divided government.

This political context tends to produce effective control over the bureaucracy since the political opposition tries to limit bureaucrats' leeway through the enactment of low-discretion legislation (Epstein and O'Halloran 1999; Huber and Shipan 2002). Similarly, in democracy, there are non-statutory mechanisms (e.g. legislative veto over agencies' rules) and non-legislative institutions such as courts that also constrain the bureaucracy's actions.

Legislative dominance theories present three problems for the analysis of bureaucratic-congressional relationships in developing countries. First, as mentioned above, they assume that officials' behavior is constrained through institutional mechanisms; especially statutes, procedures, and low-discretion legislation. This assumption is especially problematic in countries with deficient rule of law and that lack a Weberian state. Since the enforcement of laws is poor and sanctions are rarely imposed in these settings, bureaucrats frequently violate formal rules. Rather than being constrained by legislation, informal patterns and practices guide public servants' behavior (Grindle 1977; Helmke and Levitsky 2004). Second, legislative dominance theories assume a unilateral flow of authority from legislators to bureaucrats. According to this framework bureaucrats respond to legislators' preferences but not vice versa. Through the establishment of procedures, policy instructions, and constraints in legislation (among other institutional mechanisms), legislators induce bureaucratic compliance. Consequently, legislative dominance assumes that, while democracy allows members of Congress to control the bureaucracy, officials cannot exert leverage over lawmakers by any means. This assumption is not realistic in countries where the bureaucracy has ample

control over fiscal and social policies. Given that in these settings bureaucrats have control over important resources that politicians need to advance their careers, officials exert ample influence over lawmakers. Public servants, for instance, are in charge of carrying out social policies that benefit thousands of citizens, including legislators' constituents. Members of Congress need bureaucrats to deliver handouts and other resources to their constituents and cronies. Similarly, top-level officials may do special favors for legislators or their cronies. The fact that bureaucrats could have the power to exert leverage over legislators is not considered by the legislative dominance approach.

Finally, given the unilateral claim, followers of the legislative dominance framework do not take into account that clientelism may exist between legislators and bureaucrats. That is, officials may "buy" immunity in exchange for the delivery of valuable resources to legislators. Bureaucrats and lawmakers in developing countries may enter into a patron-client relationship where the former may offer handouts to the latter in exchange for not controlling executive agencies' work. Similarly, bureaucrats can provide important resources in exchange for not presenting charges against public servants who have committed wrongdoings. In their analyses, legislative dominance theories do not consider that bureaucrats may exert influence over lawmakers by providing them with desired resources. This omission seriously limits the explanatory power of this approach in developing countries.

In sum, the absence of a Weberian state, along with ample executive branch intervention and politicians' reliance on clientelistic rather than programmatic linkages, makes the application of the institutionalist approach difficult in underdeveloped

countries. In this setting, the relationship of power between principals and agents is, to some extent, in “balance” since legislators establish laws to constrain bureaucrats and bureaucrats, in turn, control governmental resources that members of Congress need for their political careers.

INTERACTIVE MODELS AND THE MUTUAL INFLUENCE THEORY PREDICTIONS

Interactive models, the least developed approach, also predict that democracy will bring changes to bureaucratic-legislative relationships. In this approach however, and in contrast to the legislative dominance approach, democracy does not produce absolute congressional control over the bureaucracy, but rather a balance between lawmakers and public officials. Accordingly, this framework acknowledges that bureaucrats and legislators have means and resources to influence each other. Stated differently, followers of interactive models accept that there is interdependence between officials and lawmakers.

My approach, the mutual influence theory, builds on the interactive model’s reasoning and predicts that democratization leads to a modification of formal rules that regulate bureaucratic behavior. That is, democracy allows members of Congress to enact stricter, low-discretion legislation that formally limits bureaucrats’ leeway to implement public programs. Yet this framework holds that—in terms of actual, informal patterns—democracy does not bring significant changes. In other words, despite the fact that democracy allows legislators to modify formal rules, in practice, bureaucrats continue to have ample discretion to carry out policies. While democracy, then, allows legislators to

have some influence on bureaucrats (mainly through legislation), in practice, congressional control is less tangible. The next section fully elaborates the mutual influence theory.

THE MUTUAL INFLUENCE THEORY: INTERDEPENDENCE BETWEEN BUREAUCRACY AND CONGRESS

In contrast to the bureaucratic autonomy and the legislative dominance approaches that claim unidirectional authority from one actor over the other, my argument states that there is a bidirectional flow of influence between these two actors. Legislators make or reform legislation to constrain bureaucrats' behavior, while bureaucrats exert informal leverage over lawmakers by allocating important resources. Additionally, I argue that bureaucrats and legislators interact in all stages of policy making. The next section describes in detail how bureaucrats and legislators interact, and what the effects of such interaction are.

THE INTERACTION BETWEEN BUREAUCRATS AND LEGISLATORS

In both First World and developing countries, bureaucrats and legislators have resources to influence each other. In the case of legislators, they have the power to set the rules of the game. By making laws and other statutes, legislators approve budgets, decide how to allocate resources and establish limits on bureaucratic behavior.

Legislators can also oversee the work of agencies and punish – directly or indirectly – those officials who do not comply with laws and other congressional commands. Similarly, members of Congress have the power of the purse. That is, lawmakers authorize the disbursement of funds for public policies and programs.

For their part, bureaucrats' power arises from two different sources: 1) their technical expertise and information about public policies and programs, and 2) their control over significant resources. The bureaucracy has expertise and an informational advantage over Congress because officials are the ones in charge of running government programs. They are technical experts dedicated full time to the design and implementation of public policies. Over the years, bureaucrats have acquired the information and expertise that allow them to understand the details of each policy and its possible effects. In addition to the informational and expertise advantage, officials also have control over government resources. Once Congress approves a law and disburses money for its implementation, bureaucrats are responsible for carrying out the policies contained in legislation. Although lawmakers can establish limits and details on how policies should be instituted, bureaucrats are the ones that give shape and form to public programs. Accordingly, public servants decide, among many other things, where to allocate funds, the timetable to distribute resources, and what regions will benefit from the programs. The authority to make these decisions gives bureaucrats an advantage over their principals.

Since the way in which laws are enacted is very important for agencies, public officials pay special attention to the legislative process, and to the deliberation of bills in

particular. Bureaucrats take advantage of their technical capacity and information to formulate and propose policies to politicians. Although lawmakers may change these policies, bureaucrats define—to a great extent—the policy agenda, as well as the framework, boundaries, and content of public programs. Even when members of Congress initiate bills without the advice of the bureaucracy, public officials frequently know more about the potential effects of those bills and how to shape them according to their interests. During the deliberation of bills, for example, bureaucrats can advise politicians to change their initial proposals and modify certain provisions in the bills according to the agency's goals. Officials can either negotiate with legislators to establish certain stipulations that benefit them or shape legislation in a way that, in theory, is beneficial to legislators, but that in reality is advantageous to the bureaucracy. Once Congress passes a law, public officials are responsible for its implementation. Public servants, then, are the ones that ultimately control and distribute important resources to diverse actors.

Although bureaucrats and legislators have resources to influence each other, the power relationship between these two actors is hardly in balance. As Weber pointed out in his seminal essay, with great frequency bureaucrats have the upper hand in the policy making process. Legislators, however, use institutional factors and take advantage of political contexts to offset the superior power of bureaucrats. Despite the limitation of resources, structural deficiencies, and other disadvantages, lawmakers in new democracies have started to develop professional staffs and expertise to counterbalance—

at least to some extent—the technical capacity of executive agencies. Additionally, legislators in developing countries have begun to modify the legal frameworks that allow politicians to effectively exert *ex ante* and *ex post* controls over public policies and programs. In theory, the combination of vast legislative resources and effective legal frameworks should make the power relationship between bureaucrats and members of Congress more balanced in new democracies than in authoritarian regimes. However, legislators rarely use the resources and formal powers that they have established. Why? What explains the lack of effective legislative control over the bureaucracy in new democratic regimes? Why do legislators tolerate significant bureaucratic discretion in the implementation of public policies?

To answer these questions it is necessary to first assess the applicability of principal-agent theory in developing countries. The assumptions underlying the principal-agent framework—particularly the existence of a Weberian state and the unidirectional flow of authority from principals to agents—may be valid in First World countries, but does the dominant institutionalist approach apply in underdeveloped countries?

There are three main differences in the relationship between legislators and bureaucrats in First and Third World countries: First, due to the strength of informal patterns of behavior, the principal cannot have effective control over the agent through legislation. The assumptions of the legislative dominance approach presuppose that there is an effective rule of law and that the relationships between officials and legislators are largely regulated by formal rules. This does not seem to be the case in underdeveloped countries, where bureaucrats do not follow clear rules in their day-to-day behavior

(Grindle 1977). Since officials do not follow formal rules, any laws made by Congress cannot reliably guide and constrain them (Grindle 1977; Helmke and Levitsky 2004). Even if legislators enact low-discretion legislation, there is no guarantee that bureaucrats will act as lawmakers want. Furthermore, the fact that the rule of law in developing countries is inefficient provides more power to bureaucrats since it is likely that they will not be punished for violations of laws or for not carrying out legislators' commands. The weak rule of law, along with the absence of a Weberian state, makes it exceedingly difficult to constrain bureaucratic behavior through laws and statutes.

Second, in contrast to First World countries, politicians in the developing world tend to attract voters through clientelistic rather than programmatic linkages (Kitschelt 2000; Kitschelt and Wilkinson 2007). That is, although parties may offer universalistic packages of policies, in practice politicians are prone to provide direct and personal goods or money to particular individuals or groups of citizens in exchange for political support. If legislators get citizens' votes with programmatic messages, bureaucrats would have much less leverage since the provision of benefits to people would be universal rather than particularistic. However, in developing countries, bureaucrats' influence is very strong given that they have control over governmental resources that are delivered in a clientelistic way to the citizenry.

Finally, the agent is not as powerless as the dominant institutionalist approach assumes. In developing countries, there is not only an asymmetry of information between bureaucrats and legislators, but also a disadvantage in terms of control over governmental resources. Under these conditions, bureaucrats have informal but significant leverage

over their principals who, in theory, have the right and responsibility to allocate the resources of the state. Consequently, the dominant institutionalist framework may not apply well in political systems where the executive branch still intervenes deeply in diverse societal and economic spheres. Although legislatures and interest groups in Latin America today have more weight in policymaking than in the past, officials still have great influence in the design and implementation of policies.¹² Given this kind of intervention, bureaucrats have control over multiple resources that are allotted in a discretionary way. This practice promotes widespread clientelism and politicians' reliance on patronage. Bureaucrats in these settings often become involved in patronage-client relationships (PCRs) in which they offer goods, positions or services to their subordinates or other political actors in exchange for political support and loyalty (Grindle 1977).¹³ Consequently, PCRs are effective and efficient means by which public officials secure the flow of resources needed to achieve certain goals and advance their careers.

The same logic of PCRs within the bureaucracy can be applied to the relationship between bureaucrats and legislators. Officials offer benefits to legislators in exchange for allowing bureaucratic discretion in the design and implementation of policies. The benefits might range from resources, goods and special favors for legislators'

¹²In Mexico, for instance, between 85 and 95 percent of states' resources come from national taxes collected by the federal government.

¹³ The patron-client relationship is characterized by "an enduring dyadic bond based upon informally arranged personal exchanges of resources between actors of unequal status" (Grindle 1977: 30).

constituency or interest groups, to getting a position within the agency. By allowing bureaucrats to have significant leeway, legislators secure resources to distribute among their constituents and other interest groups that politically support them. Accordingly, by not exercising their control powers, lawmakers increase their support, influence and prestige, which are elements needed to advance their political careers (Scher 1963).

Legislators, then, enjoy greater payoffs by maintaining good relationships with bureaucrats than by exercising strict control over them. Stated differently, lawmakers get higher rewards if they maintain cordial communication with public officials from whom they can obtain benefits. The legislative-bureaucratic relationship would deteriorate if policymakers started investigations or accused bureaucrats of policy failures. Given that legislators depend on bureaucrats for patronage, agents in developing countries are not powerless. Therefore, the “controllers” depend, to some extent, on those who they are supposed to control for their “political survival”.

In sum, my theory claims that there is mutual influence between legislators and public officials. On the one hand, bureaucrats need laws not to contain excessive checks and controls that could severely limit their leeway to carry out public programs. Public servants also need legislators’ disbursement of resources for the implementation of policies. Additionally, officials prefer not to have systematic congressional monitoring over agencies’ work. On the other hand, legislators require bureaucrats’ technical knowledge and expertise to reach certain goals. Furthermore, given that bureaucrats have control over government resources, legislators require that bureaucrats distribute those resources among their constituents and cronies. Since each of these actors exerts

influence over the other, my approach states that lawmakers and officials are mutually dependant. Therefore, the mutual influence theory argues that there is not unilateral control, but bidirectional authority in the bureaucratic-legislative relationship. While members of Congress formally constrain bureaucratic behavior through legislation, bureaucrats exert informal leverage over lawmakers by distributing handouts to politicians or by doing favors for legislators' constituents and cronies. By distributing resources that are valuable to legislators, bureaucrats may "buy" discretion to carry out policies at their convenience.

The extent to which officials can influence lawmakers depends on the bureaucrats' degree of control over governmental resources. The higher it is, the greater leverage they have over legislators, and the lower the legislators' control over public programs.

STAGES

Now that the logic of bureaucratic-legislative relations in developing countries has been explained, I proceed to the analysis of the stages in which these two actors interact. By examining these different stages, one can grasp the details of the mutual influence theory. Although bureaucrats exert influence over members of Congress during the first three stages of the interaction, legislators have the upper hand since they are in charge of the legislative process. However, in the implementation stage, bureaucrats use their informational and resource advantages to carry out policies and programs at their

convenience. In addition, the analysis of the stages will also allow for the opportunity to derive specific hypotheses that will later be tested in the empirical chapters.

Before analyzing this interaction, it is first necessary to mention two important assumptions: 1) Public officials have greater expertise, staff and experience in the policy making process than legislators; 2) In developing countries the executive branch, despite the recent waves of deregulation, still deeply intervenes in economic and societal spheres. This assumption implies that bureaucrats have almost complete control over government resources. The following stages describe the interaction between bureaucrats and legislators in recently installed democracies. In these regimes legislatures have started to counterbalance the influence of executive agencies by proposing and passing their own bills and modifying and blocking the president's bills (e.g. Morgenstern and Nacif 2002). In the following analysis, I examine the policy-making process, when bureaucrats propose a bill via the president or his party and Congress decides to either modify or reject it. I also assume that in the previous authoritarian regime, bureaucrats had ample discretion to carry out policies and that legislators in the new democratic regime are willing to modify the legal system in order to reduce bureaucratic leeway. My analysis explains the bureaucratic-legislative interaction under a divided government setting. In theory, legislative control over the bureaucracy is greater in divided governments than it is in unified governments because the interests of both actors diverge (Epstein and O'Halloran 1999; Huber and Shipan 2002). Legislators under a divided government tend to approve more low-discretion legislation that seeks to limit bureaucrats' leeway to implement public policies. In the case of a unified government, the president's party

tends to approve laws that allow executive agencies to implement public policies with ample discretion. In my analysis, I examine a political context in which—according to the standard principal-agent framework—legislators should exert more effective control over the bureaucracy.

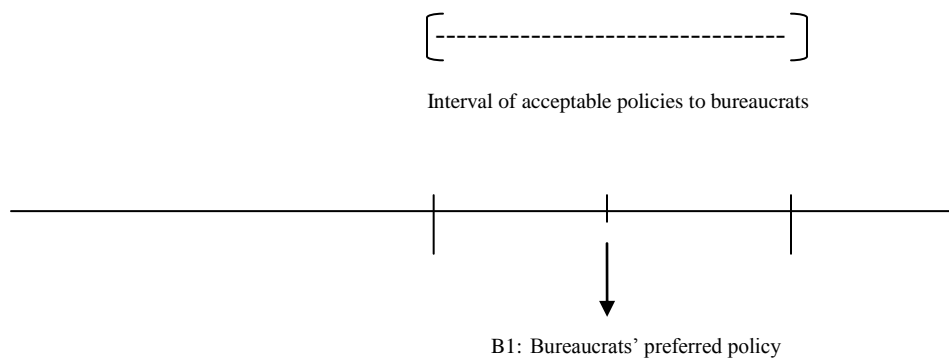
BILL ELABORATION STAGE. The interaction between bureaucrats and legislators begins in the elaboration of bills. Although formal rules grant Congress exclusive authority to discuss and debate bills, public officials do, in fact, intervene at this stage. Bureaucrats utilize their superiority in technical knowledge and information to play a significant role in the designing, elaboration and preparation of policies. That is, bureaucrats introduce legislative bills usually via the president or his party. In this way, public officials help define the options, frame the issues, and propose the solutions that the executive leadership—and later, Congress—considers, debates, and decides on (see figure 2.1). Even when legislators, for their part, propose bills to advance public programs that will ultimately bring benefits to them or their party, they often consult the bureaucracy on issues of feasibility.¹⁴

¹⁴ Even when such consultation does not exist, bureaucrats can intervene in the deliberation process and negotiate with legislators the inclusion of certain provisions that benefit them. Bureaucrats, for instance, can offer the delivery of handouts in exchange for not establishing certain constraints in legislation.

Hypothesis 1: Although formal rules grant legislators the exclusive authority to consider, discuss and debate bills, bureaucrats intervene in the process by taking advantage of their superiority in technical knowledge and information in order to define and frame the issues of bills analyzed by Congress.

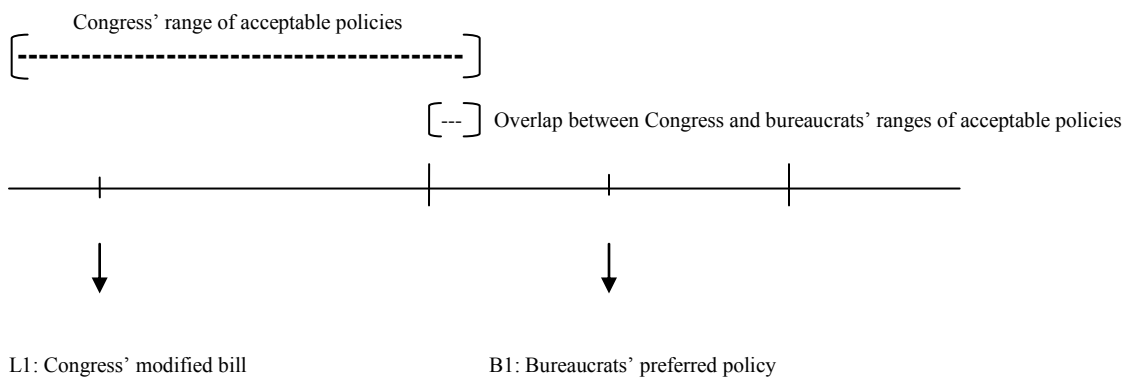
Figure 2.1 shows the bureaucrats' preferred bill in a single policy dimension and the interval of bills acceptable to bureaucrats. Officials establish the left and right boundaries of this interval; any bill inside these boundaries is acceptable to bureaucrats.

Figure 2.1: Bureaucrats' Preferred Bill and the Range of Acceptable Bills



DELIBERATION AND BARGAINING STAGE. Members of Congress decide whether or not to discuss the president's bill (or the president's party's bill) that was previously elaborated by the bureaucracy. If legislators decide to analyze this bill, they will usually make changes to it. These changes, however, will normally be made to only certain elements of this bill. That is, most of the time lawmakers do not propose a different bill; they modify only certain elements of the president's bill. Members of Congress also establish a range of policies acceptable to them. Congress' modified bill is within this range. In cases of divided government, however, the modified bill may well be outside the range of the policies acceptable to bureaucrats. Figure 2.2 shows how Congress' bill is far from the bureaucrats' preferred policy. In fact, the bill is outside of the policies acceptable to bureaucrats. Negotiation between the bureaucracy and legislators occurs only if there is an overlap between bureaucrats' and legislators' ranges of acceptable policies.

Figure 2.2: Congress' Modified Bill in Cases of Divided Government



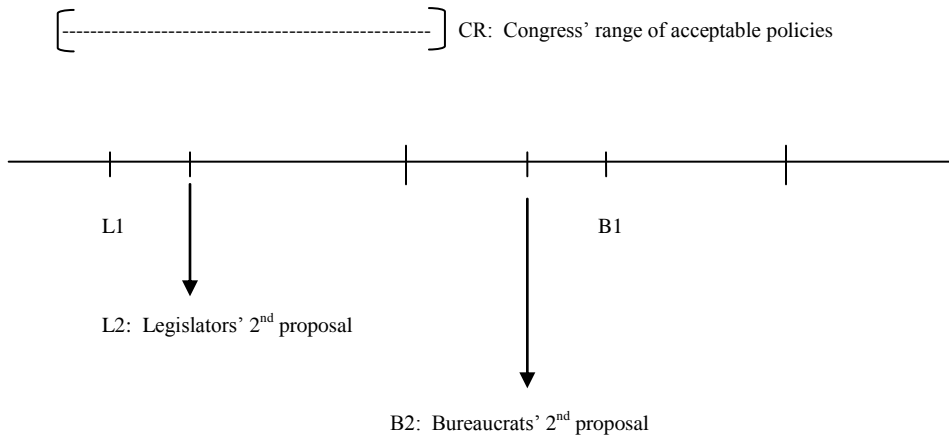
All things being equal, both legislators and bureaucrats want to enact laws that ensure them benefits. A common procedure to guarantee legislators' benefits is by establishing laws that contain concrete objectives, procedures and outcomes that bureaucrats should follow and accomplish (McCubbins, Noll and Weingast 1987; 1989). Stated differently, lawmakers will try to limit bureaucratic behavior through laws in order to obtain what they want. Conversely, bureaucrats will demand ample discretion in legislation that allows them to implement policies and public programs at their convenience. In this way, a bargaining process begins in which both players want to ensure themselves the greatest possible benefits in legislation.¹⁵ With frequency, bureaucrats offer handouts to legislators in exchange for relaxing the checks and constraints proposed in the bill.¹⁶ Legislators thus propose a second bill that is closer to the bureaucrats' preferred policy, but that is still far from the officials' interval of acceptable policies. For their part, bureaucrats draft a second bill that is closer to the legislators' most preferred policy, but that is still inside their own range of acceptable policies and outside of the legislators' acceptable policies.

Hypothesis 2: Public officials offer handouts and other valuable resources to legislators in exchange for eliminating or relaxing the constraints and controls proposed in bills aimed to reduce bureaucratic leeway.

¹⁵ The venue through which bureaucrats and legislators negotiate is frequently informal, for example, non-official meetings.

¹⁶ Public officials may also negotiate the delivery of important resources to members of Congress in exchange for maintaining the status quo in legislation.

Figure 2.3: Bargaining Process

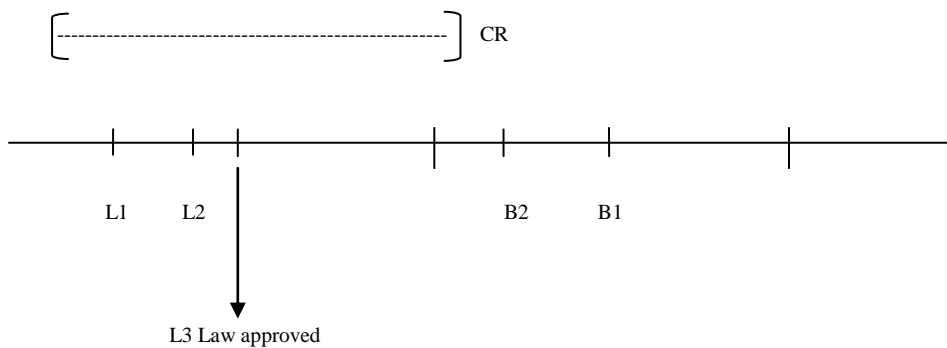


APPROVAL STAGE. The bargaining process frequently produces a legislative bill that benefits both actors. However, the approved bill generally favors Congress. On the one hand, Congress people tend to approve a law that is close to their second proposal. Additionally, legislators are usually able to specify in the new law what procedures and outcomes bureaucrats should produce. On the other hand, the new law does not severely constrain the bureaucracy or command it to produce policy outcomes that go completely against public officials' interests. Stated differently, the new law is restrictive, but not as restrictive as legislators would want since lawmakers frequently concede to many of the bureaucrats' demands (see figure 2.4). Despite these concessions, lawmakers are able to establish specific instructions to which bureaucrats should comply. The lack of adherence

to these directives may be sanctioned – directly or indirectly – by Congress. In short, legislators establish stipulations in legislation in an effort to obtain benefits and to punish public servants if they fail to accomplish certain tasks.

Hypothesis 3: Although legislators concede to many of the bureaucrats' demands in the bargaining process, the former establish controls and constraints in laws that significantly reduce officials' leeway.

Figure 2.4: Law Approved



IMPLEMENTATION STAGE. Once Congress approves a law, the responsibility to implement public policies and programs is transferred to bureaucrats. By passing a law, legislators

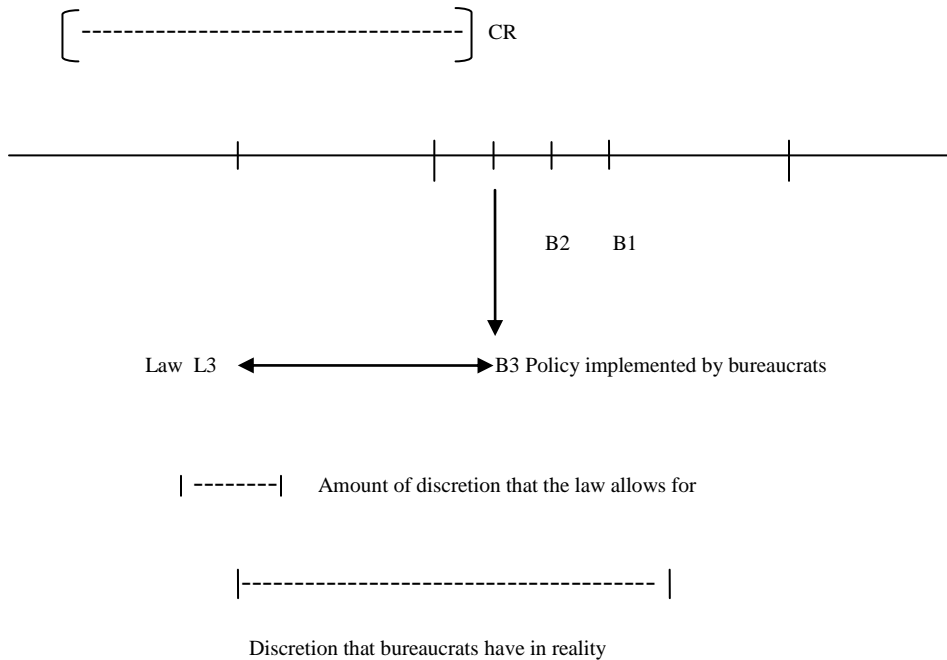
delegate authority and resources to the bureaucracy so that it can carry out public policies. Because the new law constrains bureaucrats' behavior and affects their interests, officials either do not strictly follow its procedures and instructions, do not produce all the outcomes established in laws, or violate laws in order to pursue their own objectives.

Hypothesis 4a: Public officials are not reliably constrained by low-discretion legislation, despite its approval by Congress. Bureaucrats follow laws at their discretion.

Hypothesis 4b: Bureaucrats will only strictly adhere to legislation if it does not interfere with their interests.

Figure 2.5 shows the distance between the law approved by Congress and the bureaucratic policy that is, in reality, implemented. While the latter is within the original bureaucrats' range of acceptable policies, it is very close to the legislators' interval due to the fact that bureaucrats also make concessions to legislators in the implementation process. In other words, bureaucrats do not implement the most preferred policy, but one that is closer to the legislators' preferences. The figure also depicts the low level of discretion that the law allows for, as well as the much greater discretion that bureaucrats enjoy in practice. Bureaucrats can implement any policy within this interval. That is, officials can either strictly adhere to the law approved by Congress, or implement any other policy that is closer to their preferred policy.

Figure 2.5: Distance between the Law and the Policy Implemented



Due to the asymmetry of information and expertise, legislators do not automatically detect bureaucratic transgressions of laws. Yet, either by themselves or through interest groups, members of Congress eventually become aware that bureaucrats are not complying with the stipulations established in legislation. In this scenario, legislators have three options to counteract bureaucrats' actions: 1) Members of Congress can start oversight actions and investigations of specific agencies and/or public programs; 2) lawmakers can modify legislation establishing stricter constraints on bureaucratic

leeway or, 3) legislators can take no action against the bureaucrats' transgressions of the law and demand that officials deliver important resources that benefit their electoral interests. Put differently, congress people can renounce their control powers in exchange for certain type of resources, such as money, material goods, or governmental positions that the bureaucracy has under its control.

Legislators most frequently take options 1 and 3, or a combination of both. However, the first option—to carry out oversight actions—is very ineffective and superficial. That is, legislators do not exert strict supervision of governmental programs. Committees, for example, do not systematically and continuously oversee the implementation of policies. Committee members neither read bureaucratic reports nor ask agencies for important information that reveals the progress of policies. Similarly, serious legislative investigations are rarely carried out. Congressional hearings with bureaucrats only last a few hours and legislators do not verify the information provided by officials during the meetings. In the same way, lawmakers do not follow up on the problems discussed with bureaucrats. Most of the time legislators ask bureaucrats to appear before committees due to requests by interest groups or media pressure. But once bureaucrats appear before committees, legislators do not check whether the problem has been solved.

Why do legislators not exert their oversight powers better? There are at least two reasons that account for the legislators' reluctance to use their control powers. First, overseeing the bureaucracy is costly. Given the information asymmetry, legislators cannot easily supervise public policies and programs. Therefore, members of Congress have to invest time, effort, and money to monitor the work of executive agencies.

Second, oversight actions produce political conflict. Often, the supervision of governmental programs produces enmity between legislators and agencies. Such enmity is not convenient for legislators since bureaucrats control resources (or do favors) that they need to advance their political careers. Moreover, as mentioned previously, bureaucrats are not powerless; they have means and resources that can be used to strike back at legislators. For instance, bureaucrats may retaliate by cutting the flow of resources delivered to those legislators who try to control them. In sum, since oversight actions and investigations can be counterproductive to lawmakers, these instruments are rarely used as mechanisms to exert control over the bureaucracy.

The third option, congressional self-restraint against taking actions to counter the bureaucrats' violation of the law, is observed most often in new democracies because it is more politically beneficial to legislators. Bureaucrats' control over important resources encourages legislators to renounce their control powers. That is, lawmakers can obtain more resources from the bureaucracy by not exercising their control powers than by exerting effective supervision of policies and programs. The implementation of effective legislative control (either by approving stricter legislation or by carrying out systematic oversight actions) would damage lawmakers' relationship with the bureaucracy. Strict control would cause bureaucrats to stop the flow of resources or favors to legislators.

Hypothesis 5: There is an informal exchange in the bureaucratic-legislative relation in which bureaucrats give important resources to legislators in exchange for not exerting their control powers over public policies and programs.

In this way, there is an informal exchange of immunity for resources. Legislators do not supervise or sanction bureaucratic actions, while officials pay back this service by distributing resources to members of Congress. In general, this informal practice is an implicit agreement between both actors. In other words, legislators do not have to threaten bureaucrats with investigations or sanctions in order to obtain what they need. For their part, officials do not need to intimidate lawmakers by stopping the delivery of resources to get bureaucratic discretion. In some cases, legislators let bureaucrats know – either directly or through the media – which procedures and outcomes established in laws are not being accomplished, or that agencies are violating certain stipulations. This warning is sufficient to persuade bureaucrats to continue with (or increase) the distribution of goods. In the same way, bureaucrats can temporally cut the flow of resources or favors to let legislators know that some congressional action is bothering them, such as a bill that intends to affect bureaucrats' interests, a congressional statement, or a committee investigation. This unwritten pact between lawmakers and bureaucrats continues until one of the two actors realizes that the other is violating the agreement, or until the agreement ceases to satisfy any one of their interests.

If there is an informal agreement in which legislators allow bureaucratic discretion in exchange for governmental resources, why have members of Congress approved stricter laws that seem to be designed to reduce officials' leeway? In order to get credit from voters and interest groups, legislators need not only material resources but also symbolic actions to legitimize their role as the people's representatives. One of the main means of legitimizing legislative work is through the amendment of laws. In fact, the enactment of tighter laws is an opportunity to engage in symbolic action (March and Olson 1983). By reducing officials' discretion in laws, legislators send the signal that Congress is carrying out meaningful work by holding bureaucrats accountable. Although deputies and senators are not, in practice, insistent on constraining bureaucratic leeway, the approval of stricter laws may be a "tactic for creating an illusion of progress where none exists" (March and Olson 1983: 290). Furthermore, the enactment of low-discretion legislation gives legislators the possibility to sanction bureaucrats if they stop delivering resources. Lawmakers can also use stricter laws as an instrument to negotiate the distribution of more handouts. Hence, it is very likely that legislators pass tighter laws not because they want to limit officials' behavior, but because they either seek to get credit, legitimize their work, or obtain more resources.

Given extensive state intervention, the absence of a Weberian state, bureaucrats' power to control governmental resources and the legislators' need for resources, is it possible to exert legislative control over public programs in developing countries? In principle, it is possible to control bureaucrats. However, effective control over the bureaucracy emerges only if there is a coalition of politicians that decides that a policy or

agency is hurting their interests. This happens when an agency implements or modifies a policy in a way that systematically hurts political parties' privileges. Under this circumstance, legislators will use their formal control powers as a mechanism to stop such a policy. Thus, lawmakers will carry out oversight actions that lead to either the transformation or the elimination of the policy. Only under this condition will legislators pay the costs (time, effort, energy) and run the political risks involved in the monitoring of public programs. The failure to pursue oversight actions, in this case, could imply long-term negative consequences for legislators.

CONCLUSION

The theory presented here explains the interaction between bureaucrats and legislators throughout the policy-making process. More important, the theory captures the impact of democratization on the bureaucratic-legislative relationship in developing countries by including in its logic the mutual influence that exists between public officials and legislators. Consequently, the theory acknowledges that democratization brings a significant change in the bureaucratic-legislative relationship given that legislators are able to obtain more influence than they had under the authoritarian regime, when bureaucratic dominance prevailed.

In contrast to the bureaucratic autonomy approach and the principal-agent models, which contend that just one actor dominates the other, I argue that both legislators and bureaucrats have the means to influence or retaliate against each other. This argument

holds particularly true in developing countries where there is bidirectional influence in which principals have formal rights to control agents, but agents have informal leverage over principals. These informal mechanisms of influence neutralize the formal control powers that legislators have over bureaucrats. By distributing resources for handouts, bureaucrats obtain legislators' consent to design and implement programs as they desire. Chapters 4 and 5 apply this theory to account for the budgetary process and the implementation of health policies, respectively. But before the analysis of these case studies, the next chapter explains why this theory better captures the relationship between bureaucrats and members of Congress in Mexico than the bureaucratic autonomy and legislative dominance approaches.

CHAPTER 3: DEMOCRACY'S IMPACT ON BUREAUCRATIC-LEGISLATIVE RELATIONS: MEXICAN REALITIES

Chapter 2 presented the basic theoretical frameworks to study bureaucratic-legislative relations. The present chapter draws out the implications for the issue of democracy by empirically examining how democratization affected the relationship between public officials and members of Congress in Mexico. Before chapters 4 and 5, the empirical core of the dissertation in which two issue areas are examined, this chapter provides an analysis of some of the overarching institutional changes to the bureaucratic-legislative relationship brought on by Mexico's democratization.

The first section assesses whether the bureaucratic autonomy and the legislative dominance approaches are effective tools in accounting for the bureaucratic-congressional relationship in Mexico's new democracy. The bureaucratic autonomy approach is useful in explaining this relationship during the PRI era, but it fails to provide a convincing explanation of the increasing power of Congress under democracy. For instance, this approach cannot account for the establishment of multiple controls and constraints in legislation since the PRI lost the majority in the Chamber of Deputies. Moreover, since the bureaucracy is considered the main actor in the policy making process, this approach cannot explain for deputies' cuts to the president's budget since 1997.

For its part, legislative dominance predicts that democratization will activate certain variables and contexts that lead to a substantial reduction of bureaucratic

discretion. These factors have been present in Mexico since the PRI lost the majority of seats in the Chamber of Deputies in 1997. Therefore, this approach seems to be successful in accounting for the bureaucratic-legislative relation in the country. This section also explains why Congress functioned as a “rubber-stamp institution” during the PRI era and how democratization gradually allowed legislators to become the main sponsors of bills. In particular, I analyze bill approval between 1982 and 2006. The analysis shows how presidents’ bill approval rate decreased as the process of democratization advanced.

The second section examines the effectiveness of the legislative dominance framework by focusing on one institutional mechanism—the investigative committees—through which the legislature, in principle, could hold the government accountable. Although more investigative committees have been created since democratization, their effectiveness is limited in making bureaucrats accountable. The last part of the chapter documents “a most-likely case” of an investigative committee to illustrate the ineffectiveness of this oversight mechanism. The conclusion explains why the mutual influence approach better accounts for the bureaucratic-legislative relation in Mexico.

MEXICAN REALITIES

APPLYING THE BUREAUCRATIC AUTONOMY APPROACH TO MEXICO’S NEW DEMOCRACY

The bureaucratic dominance approach is useful in accounting for the interaction between Congress and the bureaucracy during the PRI era, but it is less effective in

explaining this relationship under democracy. As is well known, the PRI had absolute majorities in both chambers of Congress until 1997.¹ PRI hegemony in Congress produced at least two consequences for the bureaucratic-congressional relationship. First, the legislative branch functioned as a rubber-stamp institution that validated almost all presidential bills. Accordingly, PRI presidents could change the constitution and secondary laws at their discretion. Second, Congress did not effectively control public policies and programs. That is, since the executive and legislative branches were controlled by the president and the PRI, there was no effective system of checks and balances whereby Congress could limit and supervise the work of the bureaucracy.

Evidence of the legislative branch's subordination to the president is found in the number of bills enacted during the PRI era. As Table 3.1 shows, the great majority of the bills enacted in the Chamber of Deputies between 1982 and 1997 were introduced by PRI presidents. While deputies introduced more bills than the president, only a small portion of these legislative initiatives were enacted in this period. In the LII legislature (1982-1985), for instance, 92 percent of the bills approved in the Chamber of Deputies were introduced by the president. In contrast, only 8 percent of approved legislation emerged from congressional initiatives, despite the fact that deputies initiated more bills than the president. It is also noteworthy that presidents were able to pass at least 97 percent of their bills during this period. Furthermore, Congress enacted presidents' bills either unamended or with minor changes (Goodspeed 1955; González Casanova 1965; Wilkie 1967; Casar 2002). Since legislators approved the great majority of executive bills

¹ Between 1970 and 1988, the PRI controlled, on average, 78 percent of the seats in the Chamber of Deputies and almost 100 percent of the seats in the Senate (Ugalde 2000: 145).

without significant modifications, Congress was considered a rubber-stamp institution that “had a poor performance regarding its law making and oversight authority” (Casar 2002: 116).

Table 3.1: Bills Introduced and Approved by the Chamber of Deputies 1982-1997*

Sponsor/ Legislature	LII 1982-85		LIII 1985-88		LIV 1988-91		LV 1991-94		LVI 1994-97	
	Intro	App (%)	Intro	App (%)	Intr o	App (%)	Intr o	App (%)	Intro	App (%)
Deputies	197	13 (8)	352	37 (17)	244	38 (34)	178	77 (36)	164	29 (24)
Senators	NA	NA	NA	NA	1	1 (1)	3	3 (1.5)	0	0
Executive	155	151 (92)	188	186 (83)	72	71 (65)	135	133 (62)	91	90 (75)
State Legislatures	NA	NA	NA	NA	0	0	3	1 (.5)	11	1 (1)
Total	352	164	540	223	317	110	319	214	266	120

Source: Based on Casar (2001, 2002); and Weldon (2004).

* The number between parentheses indicates the percentage of bills approved.

The lack of congressional checks on executive agencies allowed for the discretionary implementation of public policies by the bureaucracy. Similarly, ineffective supervision of government programs by the legislature furthered the expansion of bureaucratic autonomy. The absence of effective checks and balances during the post-revolutionary period is evidenced by the fact that Congress deliberately delegated its legislative powers to presidents. According to Casar (2002), Congress took this step on several occasions between 1917 and 1940. Although the constitution permits

the delegation of legislative power to the executive branch under special circumstances, presidents exceeded the constitution's stipulations by legislating in several prohibited policy areas, such as education and industry (Casar 2002: 120).² Even in the late 1970s, Congress abdicated its legislative powers by approving a revenue bill that allowed the president to undertake additional expenditures without the authorization of Congress (Carpizo 1978: 145, cited in Casar 2002: 120).

Legislators also failed to effectively oversee the work of the bureaucracy. Given the prohibition of consecutive reelection, legislators' political careers greatly depended on PRI leadership and the president, who controlled nominations to most administrative and elected offices. As a consequence, members of Congress had no incentives to monitor executive agencies (Ugalde 2000).³ A congressional investigation of an executive agency could have been seen as a challenge to the president and the PRI. Furthermore, this action could have put legislators' political careers in jeopardy. Therefore, as documented below, PRI legislators almost always used their ample majority in Congress to block the opposition's efforts to investigate federal agencies. The PRI's protection of executive agencies from congressional investigations contributed to the gradual increase of bureaucratic autonomy.

² The constitution establishes that Congress may delegate its power to the executive branch in only two specific situations: in case of an emergency situation that requires the suspension of constitutional guarantees (article 29), and to regulate commerce (article 131).

³ A survey given to deputies of the LVI Legislature (1994-1997) revealed that PRI legislators considered the oversight and control of the executive branch as the least important motivation behind their actions. PRI deputies gave a score of 2.4 to the motivation: to oversee and control the executive branch, where 1 means that the motive is not important and 5 indicates that the motive is very important (Ugalde 2000: 132).

Evidence of the lack of effective checks over executive agencies during the PRI era is found in the Chamber of Deputies' investigative committees. It was not until the constitutional reform of 1977 that Congress was empowered to create special committees to investigate wrongdoings of decentralized agencies and state-owned enterprises.⁴ However, the PRI majorities in Congress either blocked the opposition's efforts to form investigative committees or minimized the impact of the committees' final reports. According to Ugalde (2000), between 1979 and 1996, opposition legislators tried to form eight investigative committees. PRI legislators impeded the formation of five of these committees, and while three were ultimately created, only one produced sanctions on public servants (Ugalde 2000: 66-91; 158-159).

Furthermore, congressional oversight of public expenditures was not effective during the PRI era. Even deputies themselves during this period recognized that the results of congressional oversight were either poor or average (see Ugalde 2000: 162-163). Ugalde also reports that the Contraloría Mayor de Hacienda, which was the auditing agency that helped the Chamber of Deputies to carry out the supervision of government spending, had a poor record of performance between 1972 and 1988. Although the Contraloría found 17 thousand irregularities in this period, there were only 257 sanctions (1.5 percent) on public servants that committed illegal actions (Ugalde 2000: 47).⁵ Additional evidence that Congress decided not to use its control powers is

⁴ Yet the constitutional amendment (article 93) did not grant legislators the authority to investigate the government's central sector, which is made up mainly of the secretarías de estado (executive ministries).

⁵ Another factor that hindered effective legislative oversight over the bureaucracy is that the congressional sessions were very short. Until 1986, the legislative session only lasted four months (from September to December). The limited time to perform congressional activities was a fact that took away political power from Congress versus the executive branch (Hernández 1998: 341-342; Valadés 1998: 375-379).

the fact that legislators did not impeach any cabinet member despite numerous cases of unlawful actions by top-level officials. The constitution grants Congress the power to start the impeachment of public servants who committed acts against the public interest (article 110). Although Congress has ample discretion to determine what constitutes a bureaucrat's action against the public interest, to date, Congress has not sanctioned any public official since 1946 (Casar 2002: 132).⁶ Congress' reluctance to use its control powers allowed the bureaucracy to implement public policies and programs with ample leeway.

The balance of power between the legislative and executive branches started to change, however, when the PRI lost its absolute majority in the Chamber of Deputies in 1997. Due to the PRI's inability to approve constitutional and secondary laws by itself, the party and its president were forced to negotiate the passing of several bills with the opposition (see Table 3.2 below). Consequently, the PRI was forced to include some of the opposition's demands in government policies and accept the establishment of bureaucratic constraints and checks in the drafting of new laws. Similarly, since 1997 opposition legislators have been able to have more of their own bills enacted and political parties in Congress can now either block the president's bills or modify them substantially. In terms of oversight, the emergence of divided government has made it more difficult for the president's party to impede the formation of investigative committees. Moreover, the old Contraloría was dissolved and a new auditing institution

Currently, there are two congressional sessions; the first one runs from September 1st to December 15 (or December 31 when a new president takes office), and the second one takes place from February 1st to April 30 (Articles 65 and 66 of the Mexican constitution).

⁶ Article 110 establishes that the sanctions are the dismissal and the prohibition to work in any position of government.

(Auditoría Superior de la Federación) with more supervision power was created. Also since 1997, the executive branch has faced more legislative controls and its discretion to carry out policies has diminished, at least in formal terms.

In sum, the establishment of a democratic regime produced a change in the balance of power between bureaucrats and legislators, at least in terms of the number of bills approved by members of Congress *vis-à-vis* the president. The bureaucratic autonomy approach cannot explain this new configuration of power since this framework claims that members of Congress have marginal influence on the policymaking process. If the bureaucratic autonomy approach cannot account for the relationship between bureaucrats and legislators in the democratic era, can legislative dominance theories better explain this dynamic?

APPLYING THE LEGISLATIVE DOMINANCE APPROACH TO MEXICO'S RECENT DEMOCRACY

Rational choice institutionalist scholars claim that the legislative dominance approach can be generalized and applied across a wide array of political systems, regardless of their constitutional structure (e.g. Huber and Shipan 2002: 10). If this were the case, bureaucratic officials would face significant and increasing constraints given that the hypothesized conditions for stricter legislative control of the bureaucracy have been continuously present in Mexico at least since 2000.

If, for example, Huber and Shipan's framework—which synthesizes previous legislative dominance theories—is applied to the Mexican case, it can be observed that its

explanatory factors (policy conflict, bargaining environment and legislative capacity)⁷ were either insignificant or did not exist in Mexico during the PRI era, but have appeared with democratization. Therefore, this approach predicts that there is now a significantly higher level of legislative control over the bureaucracy.

Democratization in Mexico activated the variables that, according to institutionalists, should reduce bureaucratic discretion. The emergence of policy conflict, for instance, has increased the motivation for legislators to hold bureaucrats accountable. Legislative studies usually associate policy conflict between Congress and the executive branch with the existence of divided government. The logic is that when the legislature is controlled by one party and the executive branch by another, the preferences and policy goals of executive agencies and Congress tend to differ to a greater extent than when just one party is in control of both branches (Huber and Shipan 2002; similar Sundquist 1988; Cox and Kernel 1991; Epstein and O'Halloran 1999).

The absence of divided government in Mexico from 1929 to 1997 suggests that policy conflict between Congress and the president was low. The legislative data available from the PRI era shows that once the president introduced a bill in Congress it was very likely to be enacted (see Table 3.1 above). Table 3.2 illustrates, however, how the initiation and approval rates gradually changed during the process of democratization

⁷ The fourth factor mentioned by Huber and Shipan, non-statutory factors, is not as powerful in Mexico as in other developed countries. For instance, the Mexican Congress has no veto power over agencies' internal regulations. When legislators consider that an agency's internal rule (*reglamento*) is in conflict with a law enacted by Congress they submit a constitutional controversy to the Supreme Court. Accordingly, the Court rules whether the internal regulation is, in fact, exceeding the limits or violating the federal law. But, although the Supreme Court can act as a non-statutory institution that might constrain bureaucratic leeway, members of Congress do not rely on the Court –at least in the first place– to get the policies they want. It seems that submitting a constitutional controversy is the legislators' last option in reining in bureaucracies.

that occurred between 1997 and 2006. The emergence of divided government in 1997 represented a shift of power between the executive and legislative branches, at least in terms of the number of executive bills approved by Congress. By 2006, for example, only 4 percent of the approved bills in the Chamber of Deputies were initiated by the president, while 86 percent of the bills passed were deputy-sponsored. Moreover, the emergence of divided government in the democratic period has made the approval of the executive agenda more difficult. Structural reforms such as the transformation of the oil industry or fiscal reform, for example, were stalled in Congress for years until their recent approval during the Calderón administration. Congressional gridlock in key legislation indicates that the level of policy conflict between the president and Congress has significantly increased in the democratic era.⁸

⁸ It is important to mention that until the LIX Legislature (2003-2006), the chance of a presidential bill finding approval did not diminish much. In the LII Legislature (1982-1985), for instance, 151 out of 155 presidential bills (or 97.4 percent) were approved. During the LVIII Legislature (2000-2003) the president's approval rate was 91.9 percent. This was due, in part, to "anticipated reaction": Presidents only introduced bills that (based on prior negotiation) had a high chance of finding approval. It seems that this pattern changed since 2003 due to the fact that the president's approval rate decreased to 58.3 percent during the LIX Legislature.

Table 3.2: Bills Introduced and Approved by the Chamber of Deputies 1997-2006*

Sponsor/ Legislature	LVII 1997-2000		LVIII 2000-03		LIX 2003-2006	
	Intro	App (%)	Intro	App (%)	Intro	App (%)
Deputies	566	121 (56)	1034	195 (55)	2677	487 (86)
Senators	38	25 (12)	153	65 (18)	65	39 (7)
Executive	69	63 (30)	87	80 (22)	36	21 (4)
State Legislatures	32	6 (2)	69	15 (5)	113	16 (3)
Total	705	215	1343	355	2891	563

Source: Based on Casar (2001); Weldon (2003, 2004); and
http://sitl.diputados.gob.mx/LIX_Legislatura/CONCENTRADO%20INICIATIVAS.pdf

* The number between parentheses indicates the percentage of approved bills.

Whether divided government occurs in unicameral or bicameral systems also has an effect on the level of bureaucratic discretion allowed in laws (Clarke 1998; Huber and Shipan 2002). In a bicameral system, two legislative chambers must pass initiatives before bills receive the required consent of the executive branch. In this setting, if the president's party controls one of the chambers (i.e. the legislature is divided) she may block opposition attempts to reduce bureaucratic discretion. In contrast, when the opposition has the majority in both legislative chambers (i.e. when there is a unified legislature) it would be easier to rein in public servants. Hence, given divided government, it is harder to constrain bureaucrats' discretion with a divided legislature than under a unified legislature because, in the case of the former, the president's party—

which is in control of one chamber—may hinder the other chamber’s effort to reduce bureaucratic leeway.⁹

In some ways, this rational choice institutionalist argument applies to the Mexican case. Divided government has been the norm in Mexico since 1997. Nevertheless, up until now the legislature has only been divided during one legislative term (1997-2000). During this period, the PRI still had an ample majority in the Senate but did not win a plurality in the lower chamber. President Zedillo used his PRI majority in the Senate to block important initiatives, such as the opposition’s efforts to decrease the rate of the value-added tax (Weldon 2004: 145). Thus, even though the process of democratization produced the first divided government in the post-revolutionary era, the fact that the legislature was divided helped the PRI to maintain the status quo in important economic and political areas. In contrast, the president’s party has not had control of either chamber of Congress since 2000. This political context has allowed opposition parties to enact laws that, in principle, limit the policies of the president and his agencies. Divided governments with unified legislatures, then, have increased the level of policy conflict between Congress and the president.

Legislators’ technical knowledge also affects the level of control over the bureaucracy. The legislative branch in Mexico never developed a high level of expertise during the PRI era because Congress had a limited role in proposing and passing bills. Given that the president was the main sponsor of bills, legislators did not need to become

⁹ In the words of Huber and Shipan: “A unified government will produce fewer constraints, divided government with a divided legislature will produce more constraints, and divided government with a unified legislature will produce even more constraints” (2002: 148).

experts on policies or obtain the assistance of professional bodies to discharge their congressional duties. Nevertheless, when the PRI started to lose control of Congress, legislators began to create research centers within the Chamber of Deputies and the Senate that provide technical support to committees and lawmakers (see Table 3.3).

Table 3.3: Legislative Research Centers

Research Center	Year of Foundation	Number of Analysts
Instituto de Investigaciones Legislativas (Senate)	1995	45
Centro de Estudios de las Finanzas Públicas	1997	40
Centro de Estudios de Derecho e Investigación Parlamentaria	1999	18
Centro de Estudios Sociales y de Opinión Pública	1999	21
Servicios de Investigación y Análisis	2000	8
Centro de Estudios para el Desarrollo Rural Sustentable y la Soberanía Alimentaria	2004	26
Centro de Estudios para el Adelanto de las Mujeres y Equidad de Género	2005	16

Source: Data taken from the www.camaradediputados.gob.mx and <http://gaceta.diputados.gob.mx>

The amount of money allocated to these research centers, and to legislative assistance in general, has significantly increased during the last decade. In 2001, for instance, the Chamber of Deputies allotted 94.7 million dollars to oversight activities. By 2006, this amount increased to 288.4 million. And in 2006 alone, deputies spent 13.6

million to pay for personal advisors and legislative staff. Likewise, the lower chamber allocated 2 million dollars to contract external institutions to carry out specialized studies for their committees. In addition, each one of the 500 deputies is given roughly 49 thousand dollars per year to spend on legislative assistance (Pensamiento 2007a).¹⁰

The adoption of the civil service system in both chambers of Congress has also strengthened legislators' technical capacity. In 2000, the Chamber of Deputies approved the creation of a civil service system for the administrative and legislative staff, and the Senate implemented its own civil service system in 2005. Although the Mexican Congress has not reached the level of professionalization that developed country legislatures have attained, the creation of research centers and the establishment of civil service systems are considered to be two important steps in increasing its technical capacity.

In sum, the PRI defeat in the Chamber of Deputies in 1997 and the PAN's electoral success in the 2000 presidential election modified the relational dynamic between Congress and the executive branch. In other words, democratization seems to have activated the variables that, according to institutionalist scholars, should reduce bureaucratic discretion, but that were not present during the PRI era. Democratization, then, has allowed for the emergence of divided government, which intensified the level of policy conflict between Congress and the president. Furthermore, divided governments with unified legislatures have allowed legislators to enact laws that seem to give them greater control over the bureaucracy. In the same vein, competitive democratic elections

¹⁰ In 2007, deputies spent 52.8 thousand dollars per year on legislative assistance. In addition, legislators received 53.9 thousand dollars per year for the salary of personal advisors (Pensamiento 2007b).

have produced a plural party composition of Congress that has increased the level of legislative capacity.

If, according to Huber and Shipan's theory, divided governments with unified legislatures—combined with a high level of legislative capacity—produce low-discretion legislation and, consequently, greater legislative control of bureaucracy, public officials under democratic rule should be more constrained, given that the above factors have been continuously present at least since 2000. In the next section, I assess whether the expected effects of democratization on bureaucratic behavior have occurred in Mexico by analyzing one of the most important congressional mechanisms of legislative oversight: the Chamber of Deputies' investigative committees.¹¹

INVESTIGATIVE COMMITTEES

As part of the political reform of 1977, article 93 of the Mexican constitution was amended to give Congress the authority to form investigative committees that can probe the mismanagement or wrongdoings of decentralized agencies and public enterprises. In order to form an investigative committee, the constitution requires that either half of the members of the Senate or one-fourth of deputies request the committee's formation. The

¹¹ Other oversight mechanisms considered in the Mexican constitution are: the legislative veto; the president's obligation to submit an annual report (*informe presidencial*) to Congress; the cabinet ministers' obligation to annually report to Congress on the state of the respective agencies; the Congress' power to summon ministers and other public officials whenever their knowledge and information are necessary or useful for legislative activities; the Congress' power to require information from government agencies, the Congress' approval of the revenue bill; the Chamber of Deputies' approval of the annual budget and the public account; the Senate's confirmation of certain public officials such as the General Attorney; and the ratification of international treaties, among others (Ugalde 2000; see also Valadés 1998: 337-417).

duration of the investigative committee is transitory and the results of the investigation should be sent to the president. As mentioned earlier, during the PRI era it was very hard for opposition legislators to form an investigative committee since the PRI used its majority in Congress to block any effort to create one.¹² Consequently, between 1977 and 1996 just three investigative committees were formed in the Chamber of Deputies, only one of which produced sanctions on public officials. Since the PRI lost the absolute majority in the Chamber of Deputies in 1997, however, the number of investigative committees has significantly increased. The LVII Legislature (1997-2000) alone formed twice as many investigative committees as had been created in the previous nineteen years. Between 1997 and 2006, a total of 13 investigative committees were created by deputies from all political parties, with no single party having the majority of committee members (see Table 3.4). In contrast to the investigative committees formed during the PRI era, since 1997 there has not been a single political party that has controlled and approved by itself the agenda and final reports of the investigative committees.

Although investigative committees are required to prepare a final report based on their activities, there are only seven available in the *Gaceta Parlamentaria*, the official register of the Chamber of Deputies' bills and resolutions.¹³ While the unavailability of final reports hindered the assessment of the efficacy of the investigative committees, it was possible to determine whether the creation of investigative committees led to either the imposition of sanctions on public officials or to a modification of the public policy by

¹² In the case of the Senate it was practically impossible to form an investigative committee given that the PRI had almost 100 percent of the seats until 1988.

¹³ It is unknown whether the other six reports never existed or were not published in the *Gaceta Parlamentaria*.

analyzing information in newspapers, special reports, and other legislative documents found in the *Gaceta Parlamentaria*. As Table 3.4 shows, only three out of thirteen investigative committees (or 23 percent) proposed sanctions or required changes to public programs. Two of the investigative committees that imposed sanctions or demanded modifications of policies were formed during the LVII Legislature (1997-2000), when the PRI controlled the executive branch but did not command a majority of seats in the Chamber of Deputies. The other committee that produced a change in a government policy was formed during the LIX Legislature (2003-2006) when Vicente Fox headed the executive branch. Hence, although more investigative committees have been formed since the emergence of divided government, the effectiveness of those committees has not significantly improved under democracy. This fact suggests that the legislature is far from establishing dominance over the bureaucracy, contrary to rational choice institutionalist claims.

In the next section, I examine one “most-likely case” for congressional oversight. This case shows that although members of the investigative committee wanted to punish public officials, the committee’s final report did not result in sanctions or modifications of policies.

Table 3.4: Investigative Committees 1997-2006

Legislature	Investigative Committee	Final Report available in the Gaceta Parlamentaria	Sanction to public officials/modification to public policy
LVII (1997-2000)	Comisión de investigación del funcionamiento de CONASUPO y sus empresas filiales	YES	YES
	Comisión de investigación sobre el impacto ecológico ambiental por las actividades de la empresa de participación estatal mayoritaria Exportadora de Sal, S.A. de C.V.	NO	YES ¹⁴
	Comisión de Investigación con objeto de analizar el sistema de pensiones de Nacional Financiera, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo	YES	NO
	Comisión para investigar el funcionamiento del Instituto para la Protección al Ahorro Bancario (IPAB)	YES	NO ¹⁵

¹⁴ In 1995 the federal government announced a plan to build a salt evaporation plant in a protected area in Baja California. The construction of the plant would be carried out by Exportadora de Sal, a state-owned company. Since the announcement of the salt plant, Mexican and international environmental NGOs protested against the project. Scientists, intellectuals, and artists around the world also made statements in *The New York Times* and other media against the building of the salt plant. The investigative committee functioned until 1998 when plans to build the plant were halted due to pressure by the NGOs. President Zedillo announced the cancellation of the project on March 2, 2000, before the investigative committee made its final report (probably this is the reason of why there is no final report in the *Gaceta Parlamentaria*). Since the pressure of the Mexican and international NGOs was decisive for the cancellation of the project it cannot be claimed that the investigative committee was responsible for President Zedillo's decision to call off the construction of the salt plant (Aridjis 2000).

	Comisión investigadora del Instituto Mexicano del Seguro Social	NO	NO
	Comisión de investigación de la Comisión Federal de Electricidad y de la Compañía Luz y Fuerza del Centro	NO ¹⁶	NO
LVIII (2000-2003)	Comisión de investigación de la planta nucleoelectrica de la Laguna Verde en Veracruz	Preliminary report	NO
	Comisión de Investigación encargada de revisar la legalidad de contratos de obra pública, concesiones, contratos de suministro de bienes de consumo o de compraventa de bienes inmuebles de titularidad pública, otorgados por organismos descentralizados o empresas de participación estatal mayoritaria a la empresa Construcciones Prácticas, S.A. de C.V., y cualesquiera otras que tuvieran relación con la misma	YES	NO
	SEGUNDA Comisión de Investigación encargada de revisar la legalidad de contratos de obra pública, concesiones, contratos de suministro de bienes de consumo o de compraventa de bienes inmuebles de titularidad pública, otorgados por organismos descentralizados o empresas de	NO, but the newspaper <i>Reforma</i> documents that it exists ¹⁷	NO

¹⁵ In its final report, the investigative committee made multiple recommendations to the IPAB and asked the next Legislature to conduct further investigations. Regarding the irregularities found in IPAB's functioning, the committee ambiguously stated that IPAB should sanction those responsible for violating financial laws. For its part, the PRD was the only party that asked for the specific sanctioning of public officials; these bureaucrats, however, were not sanctioned.

¹⁶ The final report of this investigative committee is not available in the *Gaceta Parlamentaria*, but a report of a Research Center of the Chamber of Deputies states that it exists (see Gamboa 2006: 32-33).

¹⁷ See Armando Estrop and Abel Barajas (2006).

LIX (2003-2006)	participación estatal mayoritaria a la empresa Construcciones Prácticas, SA de CV, y cualesquiera otras que tuvieran relación con la misma		
	Comisión de Investigación del Daño Ecológico y Social causado por PEMEX	YES	NO ¹⁸
	SEGUNDA Comisión de Investigación sobre el Instituto de Protección del Ahorro Bancario ¹⁹	YES	NO
	Comisión de Investigación en relación con las políticas implementadas para la determinación de los precios del petróleo	NO ²⁰	YES
	Comisión de Investigación encargada de revisar las actividades del Instituto Mexicano de la Propiedad Industrial	NO	NO ²¹

¹⁸ The committee only made recommendations to PEMEX and SEMARNAT, and did not establish sanctions for the violation of environmental laws.

¹⁹ In fact, this was the deputies' third effort to investigate the IPAB. During the previous Legislature (2000-2003), the supervisory committee created a subcommittee to continue the investigations of the IPAB. For its part, the Senate formed another investigative committee with the same purpose during the LIX Legislature (2003-2006).

²⁰ The final report of this investigative committee is not available in the Gaceta Parlamentaria, but a report of a Research Center of the Chamber of Deputies states that the report was presented to the Junta de Coordinación Política (see Gamboa 2006: 51-52).

²¹ See in the Gaceta Parlamentaria "Punto de acuerdo, por el que se exhorta a la comisión de ciencia y tecnología de esta soberanía a integrar un grupo de trabajo encargado de revisar las actividades del IMPI, a cargo del diputado José Alfonso Suárez del Real y Aguilera, del grupo parlamentaria del PRD", October 11, 2007.

THE BRIBIESCA BROTHERS' INFLUENCE-PEDDLING CASE

On April 28, 2005 one hundred and sixty five deputies requested the formation of an investigative committee before the Junta de Coordinación Política (JCP)—the legislative body that proposes the formation of legislative committees.²² The objective of this committee was to investigate the possible influence-peddling of President Fox's stepsons, Manuel and Jorge Bribiesca. Based on accusations in journalistic books and reports (e.g. Hernández and Quintero 2005; Wornat 2005), deputies alleged that the president's stepsons used their stepfather and mother's positions to obtain contracts worth millions of dollars with decentralized agencies and state-owned companies through Construcciones Prácticas, a construction company. While the official owner of Construcciones Prácticas was Miguel Khoury, deputies claimed that Manuel Bribiesca was the true proprietor who used Khoury as a cover.²³ Several journalists asserted that Manuel Bribiesca took advantage of his privileged position to obtain government housing credits and construction licenses, among other perks.²⁴ Additionally, the Bribiesca brothers were accused of acting as brokers between entrepreneurial groups and executive agencies (Wornat 2005).

The Bribiesca Brothers scandal is a “most-likely case” for effective congressional oversight because opposition legislators had at least two political incentives to sanction

²² The Junta de Coordinación Política is formed by each one of the party leaders in the Chamber of Deputies. Among other functions, the JCP promotes agreements on the content of bills and resolutions.

²³ Khoury acknowledged that Manuel Bribiesca was his partner, but in other companies (Jiménez 2006).

²⁴ Among other accusations, deputies affirmed that Construcciones Prácticas bought 1,700 houses from the Institute for the Protection of Banking Savings (IPAB), which is the government institution that, among other functions, takes charge of the management and financial administration of debt derived from Support Programs for Bank Savers and Debtors. Construcciones Prácticas, deputies affirmed, paid 600 thousand dollars (300 hundred dollars for each house) and sold them for 25 thousand dollars each (Zamarripa 2006).

Fox's stepsons and the public officials involved in this case.²⁵ First, Fox was a lame duck president at that point, as he was in his fifth year of office when the accusations began. Fox had already lost political influence on the Chamber of Deputies, given that the PAN lost an important number of seats in the 2003 midterm elections.²⁶ This setback reflected people's disenchantment with the way in which Fox was running the government, especially the economy (Jaime 2004: 36). The electoral defeat in Congress also lowered President Fox's chances to advance his political and economic agenda. Furthermore, his lack of political leadership to reach agreements with Congress had provoked multiple criticisms among analysts and the citizenry in general (*Reforma*, November 30, 2006). Opposition parties also disapproved of Fox's open confrontations with lawmakers (del Valle 2006). A noteworthy dispute between the executive and legislative branches occurred in 2005 when President Fox submitted a constitutional challenge to the Supreme Court arguing that the executive branch had authority to veto certain items of the 2005 federal budget. The antagonism between the executive and legislative branches grew in May 2005 when the Supreme Court ruled that the president could veto the budget. In sum, given Fox's enmity with Congress and the fact that he was a lame duck president, the Bribiesca brothers' case provided a great opportunity for opposition legislators to embarrass the president by imposing sanctions on his stepsons and the public servants involved in the scandal. In the same vein, this case gave deputies the perfect occasion to diminish the PAN's chances in the 2006 presidential election.

²⁵ A 'most-likely case' is defined as "a case that is strongly expected to conform to the prediction of particular theory" (Seawright and Collier 2004: 297).

²⁶ In 2000 the PAN won 207 seats out of 500 in the Chamber of Deputies. In the 2003 midterm elections this political party only managed to win 151 seats.

Second, the Bribiesca influence-peddling case provided the perfect occasion for the Chamber of Deputies to punish the abuse of power that *panistas* promised to eliminate. Abuses of power were rampant during the Fox years. In 2001, for instance, the “toallagate” was a famous scandal that involved Fox’s wife, Marta Sahagún. In this case, the press revealed that over one million dollars was spent on the remodeling of Fox and Sahagún’s log cabin at Los Pinos, the presidential residence.²⁷ Although some public officials involved in the scandal quit, none of them were severely sanctioned (Aguirre 2007). Sahagún was also accused of committing other acts of corruption. In 2004, for instance, it was revealed that the director of “Lotería Nacional” (National Lottery- federal government agency) made donations to the Vamos México Foundation, a non-profit organization headed by Sahagún. When donations were publicized, the Lotería Nacional director was removed from her position, but neither she nor any other official was sanctioned (Pantin 2007).²⁸ In addition to accusations of abuse of power and corruption, politicians—including some *panistas*—disliked Marta Sahagún for her interference in politics, and for her presidential ambitions in particular. In fact, politicians from diverse parties thought that Sahagún caused instability in the Fox government given that she used to make political decisions (*La Jornada*, July 6, 2004). In this context, it was expected that the congressional investigation of the Bribiesca brothers would punish the abuse of power and end Sahagún’s presidential aspirations.

²⁷ The name of the scandal, “toallagate”, is due to the fact that the press revealed that approximately 400 dollars were spent on towels for the presidential log cabin.

²⁸ Fox and his wife were also accused by deputies of illicit enrichment (Pensamiento 2007c).

THREE INVESTIGATIVE COMMITTEES: INEFFICIENT RESULTS

On June 21, 2005 the legislative committee to investigate Construcciones Prácticas was approved and formally established just seven days later. The investigative committee consisted of twelve deputies from six political parties in Congress.²⁹ PAN deputies, however, did not participate in the investigation, despite attending the committee meetings (Merlos 2005). The committee had a mandate to function until December 31, 2005. After several meetings, however, committee members asked for an extension to continue the investigation. On October 25, 2005 the JCP decided to extend the duration of the committee until the end of the Legislature (August 31, 2006). The JCP reversed its position, however, on December 13, 2005 and proposed that the committee finish its activities by the original deadline.³⁰ The proposal was approved by the floor due to the abstention of the PRI deputies, who at that time formed the biggest grouping in the Chamber of Deputies.³¹

Deputies from the investigative committee requested information from 114 different agencies (executive, state, decentralized, and state-owned enterprises). Members of Congress also asked six top-level officials to appear before the committee to explain the agencies' relationship with Construcciones Prácticas and to answer other questions. In order to analyze and synthesize the myriad of government information related to the

²⁹ The investigative committee was comprised of four members of the PRI; three PAN deputies; and two deputies from the PRD (including the chair of the committee). PVEM, PT and Convergencia had one member each on the committee.

³⁰ According to the chair of the investigative committee, a PRI deputy and committee member, Wintilo Vega, made a deal with President Fox's wife, Marta Sahagún, and the PAN. The deal consisted of giving Vega political support for his gubernatorial candidacy for the Guanajuato governorship in exchange for reducing the duration of the investigative committee (Escalante 2006).

³¹ In fact, there were more deputies that abstained and did not vote for the JCP proposal than those that approved it. The roll call votes were as follows: 125 votes in favor, 119 against, and 158 abstentions (see Informe de la Comisión de Investigación, Gaceta Parlamentaria, February 3, 2006).

investigation, the investigative committee hired an external consultancy. However, the JCP only paid 18 thousand dollars out of the 38 thousand that the consultancy charged for its services. The PRD, which was the political party most interested in punishing Fox's stepsons and the officials involved in this case, paid the rest.

Before the committee released its final report, President Fox publicly stated that the committee was politically biased and that neither his family nor any public official had ever transgressed the law (*Reforma*, January 24, 2006). In its final report, the committee stated that two agencies of the Secretaría de Hacienda y Crédito Público (Tax Administration Service and Banking and Securities Commission) and the Secretaría de la Función Pública (SFP)³² did not provide the information required. Given this limitation, and the fact that the members of the investigative committee did not have enough time to complete the investigation of the case, the committee proposed that the president, the Auditoría Superior de la Federación (ASF),³³ and Congress should either initiate or continue specific investigations on certain government agencies to resolve the case. Moreover, the committee demanded that the president, through the SFP, present charges against public officials that either lied or refused to provide information as required by the deputies (see Informe de la Comisión de Investigación, *Gaceta Parlamentaria*, February 3, 2006).

The committee's final report was sent to President Fox on February 1, 2006. Two days later, President Fox sent the report to the SFP to continue the investigation. In order

³² This executive agency supervises and sanctions the administrative procedures and processes of the central public administration.

³³ The Auditoría Superior de la Federación is the technical body that helps the Chamber of Deputies with the oversight and supervision of government spending. The ASF is the equivalent of the U.S. GAO.

to guarantee independence, the ministry delegated the investigation and related audits to private firms. On February 16, a second investigative committee was created to continue the inquiry on the influence-peddling case.³⁴ Paradoxically, PRI members—who months earlier abstained from voting on the extension of the committee’s investigation until the end of the Legislature— promoted the creation of the second investigative committee.

The new committee asked the heads of the Institute for the Protection of Banking Savings (IPAB), SFP and the Procuraduría General de la República (PGR)³⁵ to appear before the investigative committee. On April 6, members of the investigative committee presented charges at the PGR offices against Manuel and Jorge Bribiesca, their partners, and IPAB officials for irregularities in the auction of properties in diverse regions of the country. On this occasion, deputies argued that the IPAB, which is an executive agency, sold Construcciones Prácticas housing complexes for 800 thousand dollars when, according to an external valuation, their real value was about 100 million dollars (Velasco 2006; Estrop and Barajas 2006).

In response to these charges, Manuel Bribiesca claimed that the investigative committee violated his constitutional rights since article 93 of the constitution authorizes deputies to investigate decentralized agencies and state-owned enterprises, but not individuals. The Bribiescas subsequently sought court protection from the related accusations, charges and legislative inquiries. After several failed attempts, on May 26 a federal court provided protection to Manuel Bribiesca, and ordered the provisional

³⁴ In this case, a deputy from Convergencia was the chair of the committee. The rest of the committee was formed by 4 PRI members, 3 panistas, 2 from the PRD, and one each from the PVEM and PT. The JFC approved that the investigative committee should finish its investigation by July 30, 2006.

³⁵ This executive agency is the Attorney General office. It is in charge of investigating and prosecuting federal crimes.

suspension of the SFP and the investigative committee's inquiries. Notwithstanding, a higher court revoked the protection and the court orders regarding the inquiry four days later. The chair of the committee, Jesús González Schmal, accused the president's wife, Marta Sahagún, of allowing her sons to commit illicit activities. For her part, Sahagún repeatedly told the press that the committee did not have any evidence of her sons' alleged illicit activities. In response, deputy Sofía Castro (PRI), another member of the committee, stated: "If we do not have evidence, why have they asked for protection of the PGR, why does their friend (the Attorney General) Cabeza de Vaca not act according to the rule of law, why have they not won a single legal process if they have evidence to prove their innocence?" (Estrop 2006).

The second investigative committee's final report presented advances in the inquiry but stopped short of making any final conclusions, since it stated that the next legislature should form another committee to continue the investigation. An important development based on the committee's preliminary findings, however, was that deputies accused the general auditor of the ASF of covering up the illicit dealings between Construcciones Prácticas and other executive agencies. The auditor denied the accusation (Barajas 2006), and on September 15, the SFP announced that—based on the documents that it received from the investigative committee—it did not find any evidence of illicit acts in the twenty eight audits that were conducted on government agencies that had dealings with the companies related to the Bribiesca brothers. The PGR and the

other executive agencies likewise decided that there was not enough evidence to imprison the Bribiescas or any other top-level bureaucrat.³⁶

A third investigative committee was formed on April 25, 2007, during the LX Legislature (2006-2009). Just before the creation of this new committee, the Bribiesca brothers submitted another request for judicial protection from the actions and inquiries of the two past investigative committees. This time, a federal court granted their request on June 10. Although the court ruling was definitive, it did not include the findings and actions of the third investigative committee. While the committee continued its investigations, it too was unable to indict the Bribiesca brothers or any other public servant. In fact, the chair of the third investigative committee claimed that it was useless to present charges against public officials that had dealings with the president's stepsons since the PGR deliberately did not exert its authority (Salazar 2008). The third committee presented its final report in September 2008. The report was similar to the previous ones, in that it asked the president to sanction the IPAB officials who allowed for the sale of the housing complexes at very low prices (Salazar and Estrop 2008). No public official, however, has ever been indicted.

In sum, deputies created three investigative committees that worked during thirty-two months. The committees' final reports, according to legislators, contain documents

³⁶ The INFONAVIT, a government agency in charge of giving housing credits, acknowledged that since 2003 Construcciones Prácticas has been registered as a company that offers houses to INFONAVIT beneficiaries. Furthermore, the agency admitted that it gave credits for the acquisition of 91 houses built by Construcciones Prácticas. This company received 2.1 million dollars for the houses. The INFONAVIT, however, stated that there was not any illegal action in this transaction (see Chamber of Deputies Nota No. 2207, retrieved from http://www3.diputados.gob.mx/camara/005_comunicacion/b_agencia_de_noticias/001_2005/07_julio/12_12/2207_carece_infonavit_de_evidencias_sobre_relacion_de_empresa_construcciones_practicas_y_la_familia_bribiesca_sahagun).

that prove that the Bribiescas, along with certain public officials, were guilty of influence- peddling and other illicit activities. The results of the first two committees led to further investigations conducted by the ASF, the SFP, and other government agencies. In the end, the investigations conducted by these government agencies absolved the public officials who allegedly committed illegal activities. Despite their efforts, deputies were unable to indict either the Bribiesca brothers or any public official since the government authorities believed that not enough evidence was provided.

Why were investigative committees unable to indict any public official involved in the case? Opposition deputies made at least two mistakes during the investigation of the case. First, legislators based their accusations on statements of journalistic reports and books without verifying whether such statements were true.³⁸ Second, and most important, there was no unanimous opposition support throughout the investigation. As mentioned above, PRI deputies, who accounted for the biggest grouping in the Chamber of Deputies, changed their position on the case during the investigation. In the beginning, *priistas* gave support to the investigative committee, but several months later they abstained and allowed the Junta de Coordinación Política to finish the committee work earlier. Similarly, opposition party leaders did not strongly support the committee's results and failed to press authorities to take actions against those bureaucrats responsible for the illicit acts. While it is unclear why *priistas* and other opposition party leaders

³⁸ For instance, based on Wornat (2005) deputies accused President Fox of giving the 2003 National Housing Award to Construcciones Prácticas. This statement was false (see http://www.infonavit.gob.mx/inf_general/resp/anexo13.pdf).

changed their position, it is clear that their actions caused the investigative committee to lose legitimacy and credibility.

Furthermore, it seems that government authorities were neither willing to conduct in-depth investigations nor sanction public officials implicated in the case. Although the investigative committees presented documents that showed irregularities in the operation of Construcciones Prácticas, executive agencies did not punish any bureaucrat. The most representative case is the IPAB's auction of the housing complexes. Despite the fact that legislators were able to prove that the complexes were worth much more money than what was paid for by Construcciones Prácticas, authorities decided that there was no illicit activity involved in the transaction. In sum, deputies' mistakes, along with federal authorities' unwillingness to sanction public officials, impeded the successful resolution of the Bribiesca brothers' influence-peddling case.

CONCLUSION

Mexico's democratization did have an impact on the bureaucratic-legislative relationship. Although the bureaucratic autonomy approach is useful to explain Congress' subordination to the executive branch under the PRI era, it cannot account for lawmakers' new power in contemporary Mexico. In contrast, legislative dominance theories are able to explain the emergence of congressional influence since 1990s. Applying this approach to the Mexican case, it can be argued that democracy brought about new political contexts, such as divided governments, and activated institutional mechanisms (e.g.

legislative professionalization) that did not exist in the PRI era. These factors have given more power to Congress *vis-à-vis* the executive branch. The chapter illustrated this change by showing how such institutional factors and political contexts allowed deputies to become the main sponsors of bills as the process of democratization advanced. At the same time, the president's influence weakened as the number of executive bills debated in the Chamber of Deputies significantly declined after the PRI lost its majority in 1997.

The chapter also assessed whether the legislative dominance approach can explain one specific oversight mechanism. Specifically, the chapter analyzed the effectiveness of the Chamber of Deputies' investigative committees. Since opposition parties reached a majority in the lower chamber, it has been much easier to create investigative committees. Consequently, since 1997 more committees were created by opposition parties than had been created in the previous twenty years. The increase in the number of investigative committees is in accordance with the theoretical expectations of the legislative dominance approach. The poor results of the investigative committees, however, cannot be accounted for by legislative dominance theories. That is, this approach would predict greater efficacy to indict public officials that commit wrongdoings since most of the conditions for bureaucratic control have existed in Mexico since 1997. However, the deficient results of investigative committees show that institutional factors and political contexts are necessary but not sufficient conditions for the effective control of the bureaucracy.

The case of Vicente Fox's stepsons shows that, even when the investigative committees wanted to sanction illicit activities, the majority of the deputies were neither

very interested nor gave their full support to the investigation. Similarly, even when it seems that there was enough evidence to indict the Bribiesca brothers and public officials with whom they had dealings; government authorities were unwilling to punish these actors. Hence, in the case of the investigative committees, while legislators have the mandate to investigate and press authorities to sanction the bureaucracy, in practice their effectiveness is questionable. But what happens in the actual decision-making process?

In the following chapters I use the mutual influence approach to assess the bureaucratic-legislative relationship in two specific policy areas (fiscal and public health policies). In contrast to the bureaucratic autonomy and legislative dominance frameworks that assume unilateral control from one actor over the other, the mutual influence approach better captures how democratization produced a 'balance' in the relationship between officials and legislators. In this vein, this approach explains why bureaucrats and legislators have means and resources to influence each other and why they are mutually dependant.

CHAPTER 4: BUREAUCRATIC DISCRETION IN THE BUDGETARY PROCESS

Which theoretical approach can best explain the budget process in democratic Mexico? In this chapter I apply the mutual influence theory to account for budgetary decision-making which involves bureaucrats of the Hacienda ministry and legislators of the Budget and Hacienda committees. The case study documents the ample discretion enjoyed by bureaucrats to allocate public funds at their convenience before 1997. The chapter also shows how the process of democratization allowed legislators to transform the rules governing the budget after the PRI lost the majority in the Chamber of Deputies. Specifically, I examine three components of congressional oversight: the definition of budget terms, the financial information that the Secretaría de Hacienda makes available to legislators, and the rules regarding the government's capacity to allocate federal funds.

The chapter is organized in four sections. The first section explains why the bureaucratic autonomy and the legislative dominance approaches fail to explain the budget process under democracy in Mexico. Section two describes how, since the late 1990s, deputies have established diverse constraints and controls in three areas. Appropriations laws, for instance, required Hacienda officials to provide detailed quarterly reports to Congress about the country's economic situation. Similarly, budget legislation formally reduced bureaucrats' leeway to reallocate funds from one agency to another. In formal-legal terms, these modifications significantly constrained Hacienda officials' discretion in the budgetary process. But, the third section shows why, despite the enactment of stricter legislation, in practice bureaucrats continued to have a

significant margin to allocate public funds. Accordingly, this section documents Hacienda's multiple transgressions to budgetary laws. Finally, the chapter explains why legislators tolerated bureaucratic leeway in budget operations.

BUREAUCRATIC AUTONOMY AND LEGISLATIVE DOMINANCE APPROACHES APPLIED TO THE BUDGETARY PROCESS

Budgets are of vital importance for countries. Through budgets, public officials determine, for example, which taxes to collect, how much money is spent on social programs, and what policies are going to be funded or cut. These decisions are discussed and later ratified or modified by legislators. Both actors (bureaucrats and legislators) want to establish policies and allocate funds that will benefit their constituents and interest groups that support them. In the same vein, both sides want to avoid causing economic burdens for some regions. Because budgets' stipulations have great impact on the citizenry and the economy, bureaucrats and legislators enter into intense negotiations about every budget item. Therefore, the budget process reflects the political struggle between legislators and bureaucrats. Accordingly, the analysis of the budgetary process uncovers the extent to which each actor exerts influence over the other.

The two main approaches used to explain the congressional-bureaucratic relationship in the U.S. and other First World countries cannot account for the budget process in democratic Mexico. The bureaucratic autonomy approach might, however, help explain legislative submission to the executive branch in the past. For instance, during the PRI era the federal budget was approved with few legislative changes. Once

the president introduced the appropriations bill to the Chamber of Deputies there was little debate and deputies' amendments were minor (Wilkie 1967; Weldon 1997; 2002; Ugalde 2000; Sour 2007). In fact, before 1982 deputies did not know the entire content of the revenue and appropriations bills until the secretary of Hacienda appeared before Congress a few days before the end of the legislative term (Hernández 1998: 344). According to Bailey, the budgetary processes between 1958 and 1982 were “dominated by the presidency and the relevant agencies with very little participation by congress, other government agencies, or the public” (1984: 77).¹ The executive branch's hegemony over Congress was so strong that an opposition deputy in 1984 stated that “in terms of fiscal policy, everything is up to the president's personal judgment” (Hernández 1998: 356).

In the same vein, Díaz-Cayeros and Magaloni (1998) state that Congress made no important modifications to the appropriations bills between 1960 and 1980. Similarly, Sour (2007) asserts that between 1939 and 1996 legislators rarely changed the budget and never modified more than 0.1 percent of federal expenditure. Chávez Presa (2000) states that before 1996, appropriations laws allowed ample discretion to executive agencies to manage federal funds since public officials were not compelled to establish specific goals

¹ Bailey illustrates the great power of Hacienda over the budget during the heyday of the PRI regime by mentioning an anecdote of one prominent Hacienda secretary, Antonio Ortiz Mena (1958-1970). The anecdote describes how Ortiz Mena prepared all of the budget parameters (income, expenditure by sectors, borrowing requirements, etc.) and did not divulge them until the annual budget presentation to Congress (Bailey 1984: 78).

for many public programs.² Weldon (2002: 393) describes the budgetary process before 1997 as follows:

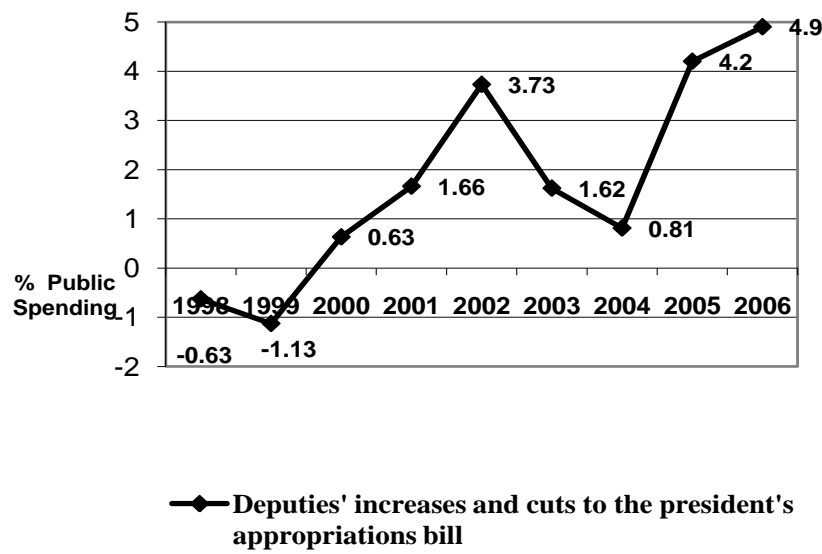
What we observe is that, most of the time, the Chamber of Deputies has usually acted as if it had totally abdicated its authority over the budget to the executive branch. Only minor changes are made in committee, always with the approval of Hacienda... The Chamber of Deputies appears to give the budget only a cursory look and approves the appropriations in short order. Even in the first legislature of Zedillo, when both chambers of Congress modified, delayed, or froze some major presidential bills, the Chamber of Deputies barely touched the budget.

Members of Congress did not strongly challenge the agencies' actions, since legislators' political careers depend, to a great extent, on the president and the PRI. Therefore, it can be said that before 1997 executive agencies dominated the policy arena. Notwithstanding, the bureaucratic autonomy approach cannot satisfactorily account for the Mexican case after substantial modifications to the budget were made following the PRI's failure to reach a majority in the lower chamber in 1997. Since then, deputies have made important changes to the president's appropriations bill (see figure 4.1). Lawmakers have significantly redistributed federal resources channeled to public programs and agencies (Ugalde 2000; Sour 2007). Similarly, deputies have fought

² The most remarkable example of a program that public officials used without restraint was the "AA Administración". This program concentrated 40 percent of the government's programmable expenses and was not bound by specific rules (Chávez Presa 2000: 147-149).

strongly for additional resources to benefit their districts, states, population sectors and certain interest groups. The bureaucratic autonomy approach is unable to explain Congress' modifications to the appropriations bill since these changes negatively affect the agencies' leverage to allocate funds and implement policies at their convenience.³

Figure 4.1: Deputies' Modifications to the Appropriations Bill 1998-2006



Source: Dávila and Caballero (2005: 23); Centro de Estudios de las Finanzas Públicas (2006)

³ Jorge Chávez Presa, a former top-level official of the Secretaría de Hacienda y Crédito Público and chair of the Hacienda committee in the Chamber of Deputies in the LVIII Legislature (2000-2003), argues that many modifications to the appropriations bill made by deputies were not objectively and fully justified according to the Ley de Presupuesto, Contabilidad y Gasto Público Federal (Chávez Presa 2000: 154).

The legislative dominance approach does not completely account for the bureaucratic-legislative relationship in the fiscal area either. If this were the case, Hacienda's public officials should be significantly more constrained under democracy than in the PRI era. That is, members of Congress should exert significant control over the allocation of federal funds given that the pertinent legislation has become stricter since the beginning of the process of democratization. However, while some scholars consider deputies' influence on the budgetary process since 1997 as an example of effective legislative control over the executive branch (Casar 2001; Weldon 2002; Sour 2007), empirical research does not support this conclusion. As is documented below, public officials—in practice—have huge leeway to implement public programs and reallocate funds, even after legislators have modified appropriations bills and other formal rules in an effort to constrain such actions by bureaucrats of executive agencies. In other words, there is now a huge gap between the constraints imposed on bureaucrats in formal rules and officials' effective discretion to carry out public programs. Hence, the legislative dominance approach, which states that bureaucrats can be reined in through legislation, cannot account for the congressional-bureaucratic relationship in the democratic era. The mutual influence theory better explains the interaction between public officials and legislators in the fiscal area since it describes how members of Congress have gained authority through the enactment of stricter laws. At the same time, the theory explains how bureaucrats neutralize legislative checks by distributing resources that members of Congress need.

In the next section, I will first analyze how the principal rules governing fiscal legislation have changed since the nineties. In particular, I analyze how the rules concerning financial information and the allocation of funds have become more detailed and strict. I then go on to assess the divergence between those rules and their capacity to constrain bureaucratic behavior in practice. Overall, I show how democratization did have an effect on the legislation regarding the budgetary process but, at the same time, I explain how the transformation of legislation has been insufficient to allow legislators to exert significant control over the bureaucracy. Specifically, I analyze two components of legislative control: the financial information that the Secretaría de Hacienda makes available to legislators, and the legislation regulating the government's capacity to allocate and reallocate federal funds.⁴

THE BUDGETARY PROCESS

The federal budget contains at least three documents: the Ley de Ingresos (revenue bill), the Criterios Generales de Política Económica (a document that provides the economic and financial guidelines for the next fiscal year), and the appropriations (or budget) bill.⁵ The Ley de Ingresos and other tax laws are approved by both chambers of

⁴ Both areas are important in the bureaucratic-legislative relation. While Hacienda provides information to Congress about the finances of the country, legislation establishes the extent of authority delegated to bureaucrats in the distribution of federal resources. In democracy, there should be higher constraints in both areas. That is, bureaucrats should provide legislators with complete and transparent information about the financial state of the nation. Similarly, officials should respect the constraints established in legislation regarding the allocation of resources.

⁵ With great frequency, the Ley de Ingresos is accompanied by the Miscelánea Fiscal which amends tax laws to conform to the revenue bill (Weldon 2002: 384).

Congress. In contrast, the Chamber of Deputies is the only body that approves the appropriations bill (Mexican Constitution, article 74). I will focus my analysis mainly on the appropriations bill.

As mentioned before, during the PRI era top-level bureaucrats, especially those middle and high-level officials of the Hacienda ministry, had ample control over the budgetary process. That is, bureaucrats planned, elaborated and executed annual budgets with scarce influence from other political and societal actors. However, officials' power over the budget started to decrease in 1997 when the PRI did not reach the majority in the Chamber of Deputies which, as mentioned above, is the only chamber of Congress in charge of approving the appropriations bill. Since then, executive agencies have had to negotiate the approval of several budget items with opposition legislators. Subsequently, opposition parties have been able to introduce items that benefit them by modifying or changing the president's budget. Given these changes, the budgetary process has become extremely important in the democratic era because parties have transformed the way in which resources are distributed. Recent appropriations laws, for instance, included policies that benefited societal groups and interests that were not considered in the non-democratic period.

As regards legislative control over public programs, democratization allowed members of Congress to gradually establish several constraints and limits to the way in which bureaucrats distribute and spend federal funds. Opposition legislators have thus been able to introduce restrictions in the annual budget in an effort to control the disbursement of funds. Moreover, it has been established that bureaucrats must comply

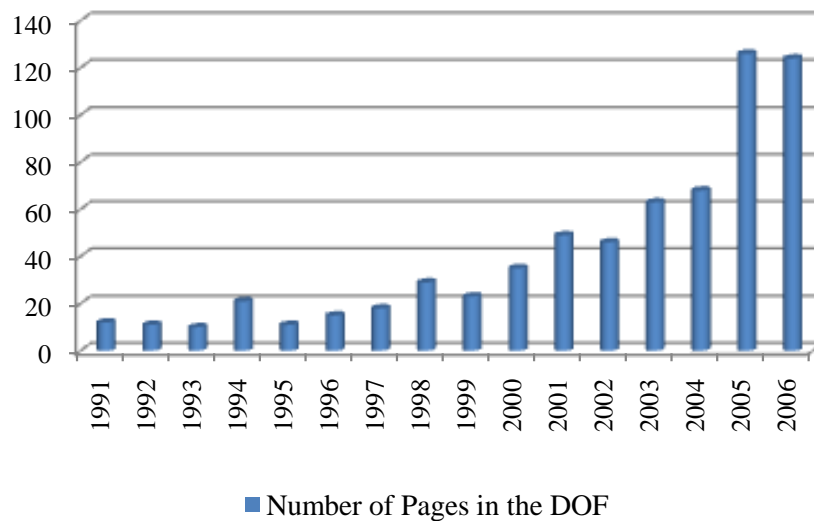
with several transparency requirements and other accountability stipulations. A way to observe this process is by measuring the length of the appropriations laws' content as Huber and Shipan (2002) do. Figure 4.2 shows how the content of appropriations laws from 1991 to 2006 became larger, especially after 2000. The figure illustrates the length of each appropriations law, as measured in pages contained in the *Diario Oficial de la Federación* (DOF), the official publication for all the governmental laws, agencies' internal rules, notifications, and decrees, among other documents. Why does the length of the budget's content matter? In principle, the larger the appropriations law's content, the more regulations, constraints and checks bureaucrats face in the allocation of funds. In other words, the larger the appropriations law (in pages), the less discretion bureaucrats have when implementing the budget.⁶

Accordingly, it can be observed that, from 1991 to 1999, the length of the appropriations laws did not exceed twenty-three pages. In the budget of 1993, for instance, the entire appropriations law for the three branches of power, other governmental agencies, and all public programs amounted to 29.9 billion dollars. The disbursement of this amount was explained in only ten pages. In 2000, the appropriations law's length increased to thirty-five pages of the DOF, and then sixty-three and 126 pages for the 2003 and 2005 budgets respectively. In 2006, the appropriations law added up to 200 billion dollars. The distribution of this amount was explained in 124 pages. Although the number of pages is a rough measure to assess the level of legislative control

⁶ Huber and Shipan (2002) used a similar method in their study. According to these scholars, the best way to measure discretion in legislation is by counting the number of words contained in laws. As Huber and Shipan state "[the] total number of words is inversely related to the concept of discretion; that is, as the number of words increases, the amount of discretion that the bill allows for decreases" (2002:143).

over the bureaucracy, it gives a good idea of how legislators have gradually established more constraints on Hacienda bureaucrats in the allocation of federal funds.

Figure 4.2: Appropriations Law's Content 1991-2006



Another way to assess how the allocation of federal funds has become stricter is by examining the subjects and issues that each appropriations law regulates. Appropriations laws are divided into titles (sections) and the latter are subdivided into chapters. Each chapter contains a certain number of articles. Titles regulate diverse subjects of the budget, while chapters regulate specific issues.⁷ Examples of these issues include the amount of money allotted to executive agencies, states, or public programs;

⁷ For instance, Title IV of the 2006 appropriations law deals with Information, Transparency and Evaluation. It has two chapters; the first one stipulates, in six articles, provisions about the budget information and transparency while four articles of the second chapter regulate the evaluation and the budgetary impact.

rules of how federal funds should be distributed and spent; and procedures that agencies should comply with in the implementation of programs and policies.

Between 1991 and 1994, appropriations laws included only two chapters.⁸ The first chapter concerned general regulations. This chapter established the aggregate amount of money to be spent throughout the year and the allocation of funds given to each executive agency and public enterprise. Additionally, other articles gave great budgetary power to Hacienda over other governmental agencies. Articles 10 and 13 of the 1991 appropriations law, for instance, authorized Hacienda to evaluate the programs' outcomes and to supervise the agencies' spending. In a similar vein, article 11 allowed Hacienda to stop the delivery of funds to agencies when the latter did not comply with special requirements. The second chapter established general administrative stipulations that bureaucrats had to follow in order to take advantage of the federal funds in an efficient way. Furthermore, this chapter included general guidelines to reduce unnecessary expenditures and maintain fiscal equilibrium. Articles in this chapter, for example, prohibit agencies to create new positions, rent additional offices or vehicles, make donations, or hire external advisors without Hacienda's consent.

Since 1995 the number of chapters in the appropriations law has gradually increased. While the 1995 appropriations law included six chapters, for example, the 1996 budget contained the double. The 1999 appropriations law contained fourteen chapters, and the 2000, 2002 and 2006 budgets each contained sixteen. The maximum number of chapters was eighteen in 2004. In addition to the chapters on general

⁸ Before 1996, titles were not part of the appropriations law structure. Consequently, these laws bundled diverse kinds of articles in a few chapters.

regulations and general administrative stipulations, appropriations laws have included other chapters that regulate a host of issues such as expenditures; bureaucrats' responsibilities; budgetary exercise and control; economic transfers to agencies and states; rules regarding public programs; additional government income, acquisitions, subsidies and transfers; and information and transparency (see table 4.1 below).

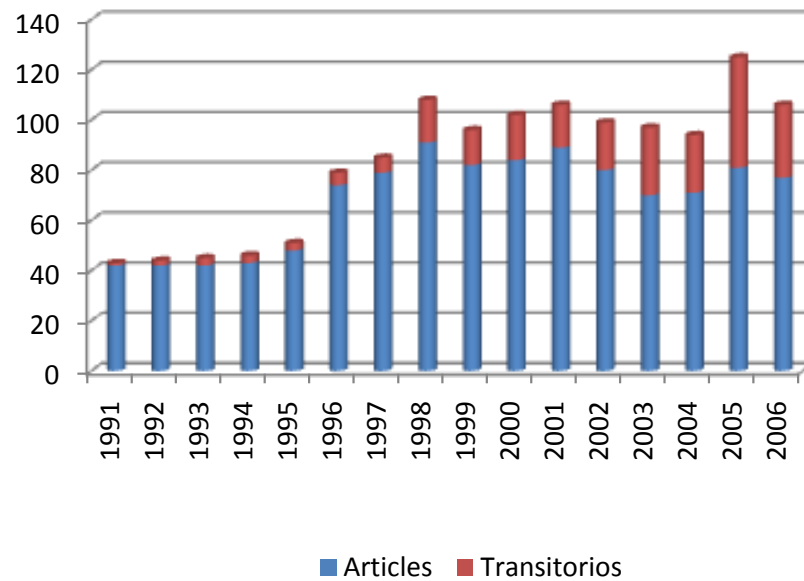
In addition to the increase in chapters, the number of articles in each chapter has also increased significantly since 1995. What does the number of articles say about the allocation of a budget? The great majority of articles in the annual budget establishes limits, constraints, checks, procedures, stipulations, and deadlines, among other rules, that bureaucrats should follow in the implementation of the budget. The logic of the number of articles is similar to that of the number of pages: the more articles in the budget, the less room of maneuver officials have since each additional article establishes a constraint in the distribution of funds. Figure 4.3 shows the total number of articles in each annual budget.⁹ As the figure illustrates, until 1995 the number of articles contained in the appropriations laws barely reached fifty. From 1996 on, the number of articles increased significantly. For instance, the 1998 appropriations law, the first one when the PRI did not have a majority in the Chamber of Deputies, included 108 articles. The greatest number of articles in an annual budget was in 2005 when deputies approved 125 articles.

⁹ The figure shows the number of regular articles plus the artículos transitorios. The latter only have effect for a limited time.

Table 4.1: Appropriations Laws' Indexes (selected years)

1991	1995	1998	2006
Chapter 1 Disposiciones Generales	Chapter 1 Disposiciones Generales	First Title De las Asignaciones del Presupuesto de Egresos de la Federación	First Title De las Asignaciones del Presupuesto de Egresos de la Federación
Chapter 2 Disposiciones de Austeridad, Racionalidad y Disciplina Presupuestal	Chapter 2 De las Erogaciones	Chapter I Disposiciones Generales	Chapter I Disposiciones Generales
	Chapter 3 Del Ejercicio y Control Presupuestal	Chapter II De las Erogaciones	Chapter II De las Erogaciones
	Chapter 4 Disposiciones de Austeridad, Racionalidad y Disciplina Presupuestal	Chapter III Del Federalismo	Chapter III De las Entidades Sujetas a Control Presupuestario Directo
	Chapter 5 De las Transferencias	Second Title De la Ejecución y Control del Gasto Público	Chapter IV De los Ramos Generales
	Chapter 6 De la Información y la Verificación	Chapter I De las Responsabilidades	Second Title Del Federalismo
		Chapter II Del Ejercicio y la Aplicación de las Erogaciones Adicionales	Chapter I Disposiciones Generales
		Third Title De la Disciplina Presupuestaria	Chapter II De los Recursos Federales Transferidos a las Entidades y Municipios
		Chapter I Disposiciones de Racionalidad y Austeridad	Third Title Del Ejercicio por Resultados del Gasto Público y de la Disciplina Presupuestal
		Chapter II De los Servicios Personales	Chapter I Disposiciones Generales
		Chapter III De las Erogaciones en el Exterior	Chapter II De las Disposiciones de Austeridad y Disciplina Presupuestaria
		Chapter IV De las Adquisiciones y Obras Públicas	Chapter III De los Servicios Personales
		Chapter V De la Inversión Pública	Chapter IV De las Adquisiciones y Obras Públicas
		Chapter VI De los Subsidios y las Transferencias	Chapter V De la Inversión Pública
		Fourth Title De la Información y la Verificación	Chapter VI De los Subsidios y la Transferencias
		Chapter I De la Información	Chapter VII De las Reglas de Operaciones para los Programas
		Chapter II De la Evaluación y la Verificación	Chapter VIII De los Recursos para la Reconstrucción
			Fourth Title De la Información, Transparencia y Evaluación

Figure 4.3: Appropriations Laws Articles 1991-2006



The inclusion of more chapters and articles in appropriations laws increased the level of legislative control over the bureaucracy given that, since 1995, budgets regulate issues that were previously left to bureaucrats' discretion. Attempts to reduce bureaucratic leeway can be observed in several budget items. I will focus on three aspects of the budgetary process: definition of budget terms, financial information, and congressional control over the government's income and spending.

DEFINITION OF BUDGET TERMS. The clear definition of key economic concepts is fundamental for the precise allocation of funds and an efficient implementation of policies. The inaccurate definition of certain economic terms leaves room for bureaucratic misuse of office. In other words, public officials could take advantage of ambiguous terms to interpret them at their convenience. For instance, bureaucrats can interpret certain concepts in ways that justify their refusal to execute certain policies. Until 1994, appropriations laws and other budget legislation did not include definitions of any economic terms. The 1995 appropriations law was the first to include four definitions at the beginning of the text. Rather than explain key economic concepts that impose limits on bureaucratic discretion, however, these definitions simply described terms that would facilitate the reading of the law.¹⁰ While subsequent appropriations laws increased the number of economic concepts, it was not until 2000 that annual budgets included definitions of important financial terms. Accordingly, these definitions reduced the room for bureaucratic interpretation. For example, the term “programmable spending” was defined in fraction XII in article 2 of the 2000 appropriations law. This specific section listed all the types of governmental expenditures that should be considered as part of programmable spending. Consequently, this definition prohibited the Secretaría de Hacienda y Crédito Público to include other expenditures in this item. Other important terms defined in the 2000 appropriations law were priority programs, ramos administrativos, ramos generales, non-programmable spending, and total spending.

¹⁰ For instance, section III of article 2 of the 1996 budget defined the term “Secretaría” as the Secretaría de Hacienda y Crédito Público.

The number of terms defined in annual budgets increased until reaching forty-five in 2006. Several financial concepts that could have diverse meanings, and could consequently be interpreted by bureaucrats to advance their interests, were precisely defined. Examples of these terms include: budgetary adjustment, budgetary saving, financial balance, efficiency in the execution of public spending, additional income, and transfers. These definitions diminished bureaucrats' ability to interpret such concepts at their convenience.

Moreover, certain definitions became more detailed over time. The term “subsidies”, for instance, first appeared in the 2003 budget where it was defined in forty-six words. By 2006 legislators approved a more detailed definition (seventy-six words). In contrast to the 2003 definition, the 2006 term includes two types of allocations that can be used as subsidies: those that aim to foster priority activities and those that are distributed to local and municipal governments (see table 4.2 below). Other definitions that were clarified over time include: programmable spending, non-programmable spending, total spending, and supplementary income.

Table 4.2: Definitions in Appropriations Laws

2003 Appropriations Law	2006 Appropriations Law
<p>Article 2, fraction XXI</p> <p>Subsidies:</p> <p>Allocations of federal funds planned in this budget that are distributed to different society actors or to states through federal agencies to foster the development of priority activities of general interest, such as the distribution of goods and services to consumers below market prices, among others.</p>	<p>Article 2, fraction XLIII</p> <p>Subsidies:</p> <p>Allocations of federal funds planned in this budget that are distributed to different society actors or states through federal agencies, or states to foster the development of priority activities of general interest, such as the distribution of goods and services to consumers below market prices, among others. Furthermore, subsidies are federal funds that the Federal Government grants to different society actors and to state and municipal governments, such as economic supports that are recoverable or not.</p>

FINANCIAL INFORMATION. Since the administration of Miguel de la Madrid (1982-1988) appropriations laws have included an article that instructs the Secretaría de Hacienda y Crédito Público (hereafter Hacienda) to send quarterly financial reports to the Chamber of Deputies (Hernández 1998: 350). However, it was not until the 1995 appropriations law (hereafter AL) that there was a specific chapter regulating the content of the financial information provided by Hacienda. Since then, ALs have instructed that information

reports should assess the implementation of public programs and policies according to the objectives and goals previously approved. In addition, Hacienda's reports must include a study of the financial situation of the country and explanations of agencies' wrongdoings, if any. Furthermore, it is stipulated that Hacienda's reports must be turned in to the Chamber of Deputies forty-five days, at most, after the quarter.

Although these reports were designed as a mechanism to oversee the implementation of public policies, they did not represent a significant constraint on bureaucrats since ALs did not stipulate what type of information bureaucrats should send. That is, legislators failed to specify what kind of economic information (requirements, parameters, criteria, results) Hacienda should include in such reports. Therefore, even though Hacienda bureaucrats had to deliver the financial reports, the information contained in them was very general and superficial. It was not until 1997 that legislators started to establish specific information requirements for reports concerning ALs. In this year, legislators established that, in addition to the regular assessment of the implementation of the budget and the evaluation of the country's finances, Hacienda should give an account of nutrition, health, and education programs. In the 1999 AL, legislators were stricter by stipulating that the financial information had to be provided in disaggregated form. That is, Hacienda had to deliver disaggregated economic information by agency. Moreover, legislators demanded that the report should describe advances made on the main budget programs, as well as any changes to their objectives and goals.

Since the PAN's 2000 victory in the presidential election, legislators have significantly increased the number of information requirements that Hacienda should

provide in each quarterly report. Accordingly, article 79 of the 2000 AL detailed, for the first time, nine types of information that Hacienda bureaucrats must include in their reports. The number of data requested increased every year until reaching twenty in 2006.¹¹ Table 4.3 shows the most important financial information requirements that the 2006 AL mandated Hacienda to include in their reports.

In addition to these requirements, Hacienda reports must detail the difference between the amounts approved and actually expended for every single budget item (for instance, see the 2004 AL, article 66, section I). In addition to Hacienda's economic reports, in 2004 deputies introduced a stipulation to compel each executive agency to send quarterly reports to their respective legislative committees about the execution and results of their main public programs (2004 AL article 55, fraction IV). In the same vein, deputies established that Hacienda must send an additional report regarding the reallocations of funds channeled to states and municipalities (2005 AL, article 73, fraction III).

¹¹ Furthermore, since 2005, Hacienda bureaucrats are required to upload the quarterly reports to the agency's website.

Table 4.3: Selected Information Requirements that should be included in Hacienda's Quarterly Reports

2006 Appropriations Law, Article 70

- Advances in the implementation of the main public programs
- Modifications to policies' objectives and goals
- Government's income surplus and its use
- Program funds not used
- Agencies' savings
- Public debt payments
- Expenditures on government's publicity
- An assessment of the investment projects
- Information about government's donations (provided or received)
- An account of the federal funds allocated to states
- Modifications to or cancellation of public program expenditures that exceed 1.5 billion dollars
- Modifications to budget items that exceed 10 percent of the originally approved amount

Since 2000, another important stipulation regarding the financial information of ALs establishes that Hacienda bureaucrats are obliged to respond to deputies' inquiries regarding the execution of public spending within thirty days of the request's submission. Failure to provide complete, opportune and truthful information is sanctioned according to both the constitution and secondary laws regulating bureaucrats' responsibilities.¹² Furthermore, deputies established in the 2001 AL that the Hacienda and Budget committees, as well as the Chamber of Deputies' Financial Research Center, should have open, complete and permanent access to the Sistema Integral de Información de los Ingresos y Gasto Público, which is an information system formed by Hacienda, Secretaría de la Contraloría y Desarrollo Administrativo¹³ and Banco de México that compiles all of the country's economic information.¹⁴ In 2002, legislators also reduced the time in which Hacienda should send its quarterly reports from forty-five to thirty-five days after the end of the three-month period. Similarly, as of 2002 Hacienda is required to provide a report about the meetings of the Comisión Intersecretarial de Gasto Financiamiento, which is a body formed by secretaries of diverse agencies that coordinates all the policies on public spending and governmental financing.¹⁵

¹² Deputies have to ask for information through the Budget Committee. That is, they cannot request information from Hacienda by themselves. All information requests have to be processed and approved by the Budget Committee (2006 AL, article 69, section II).

¹³ During the Fox administration, the Secretaría de la Contraloría y Desarrollo Administrativo changed its name to Secretaría de la Función Pública. This institution is the executive agency that internally controls and evaluates the government's public spending and diverse administrative processes.

¹⁴ Article 75 of the 2002 AL established that the Oversight committee (comisión de vigilancia) should also have access to the Sistema Integral de Información de los Ingresos y Gasto Público. The 2003 AL, however, stipulates that the president may classify information from the system as reserved.

¹⁵ Until 2005, the members of this commission were the secretaries of Hacienda, Desarrollo Social, de la Contraloría and Comercio y Fomento Industrial (see Diario Oficial de la Federación 06/13/2000). After 2005, this commission merged with another commission to form the Comisión Intersecretarial de Gasto Financiamiento y Desincorporación. ALs require that Hacienda reports include detailed information about

Moreover, the 2005 AL (article 75) required that the Auditoría Superior de la Federación¹⁶ (Federal Auditing Office, or ASF) analyze Hacienda's Informe de Avance de la Gestión Financiera (a financial report about government spending) during the first semester of the fiscal year. The ASF reports to the Chamber of Deputies about the results of the evaluation of such reports. In the same vein, ASF must analyze other Hacienda and Secretaría de la Función Pública reports regarding the implementation and execution of public policies and programs,¹⁷ including the Cuenta Pública (Public Account), which is the official annual record of the government's financial operations and accounting records from the previous fiscal year (Ugalde 2000: 39).

Another important modification was that each agency must contract external academic institutions to evaluate the efficiency of their programs. Such evaluations had to be sent to both the ASF and the Chamber of Deputies, as well as uploaded to the agencies' websites. Legislators must then consider these studies when developing the next year's budget (2001 AL, articles 70 and 88; 2006 AL, article 55, fraction IV). Similarly, the 2001 AL instructed all executive agencies to upload to their websites all information regarding their main programs. All modifications to programs and their progress must also be uploaded within fifteen days of any changes.¹⁸ In addition, since

the commission's meetings. For instance, Hacienda must report the members' attendance at the meetings and their agreements (see 2002 AL, article 74, fraction XIII).

¹⁶ This institution is the technical body that supports Congress in the oversight and review of government spending. It is the equivalent to the General Accounting Office (GAO) in the United States.

¹⁷ Since 2005, in addition to the financial quarterly reports, Hacienda and the Secretaría de la Función Pública have to elaborate reports about the execution and implementation of public policies and programs. These quarterly reports are meant to assess the efficiency, costs and overall quality of the public administration. The ASF should analyze them (2006 AL, article 76).

¹⁸ Article 7 of the Transparency law enacted in June 2002 also compels executive agencies to upload to their websites information about their policies and programs. Furthermore, this law obliges that these agencies publicize all the public officials' salaries and the results of the programs' evaluations and audits.

2002 bureaucrats have included appendixes in the budget that contain detailed financial information regarding the amount of federal funds that executive agencies, states and municipalities receive; the public programs implemented by agencies; data about the public debt; the bureaucrats' salaries by position; and the amount of money invested in long-term infrastructure projects, among other information. The number of appendixes increased from two, in the 2002 budget, to twenty-four in 2005. Last, but not less important, since 2001 the AL has instructed Hacienda to apply the same accounting methodology in all its quarterly reports in order to analyze the execution of federal funds throughout the fiscal year. Hacienda is required to outline the details of this methodology to the Chamber of Deputies before the delivery of the first quarterly report.

The amount of economic data requested in the economic reports, as well as the legislative controls of bureaucratic behavior, has increased as the process of democratization has advanced (see table 4.4 for a summary). Therefore, some analysts maintain that bureaucrats' obligation to send economic reports to the lower chamber has produced greater legislative control over the way in which officials carry out public policies (Ugalde 2000; author's interviews: August 16; November 23, 2006; November 24, 2008). These changes are consistent with legislative dominance theories in the sense that under certain political contexts, such as divided government with unified legislatures, Congress tends to make bureaucrats accountable through the establishment of procedures and instructions in legislation. The next section examines budget modifications in government income and spending.

Table 4.4: Summary of Changes to Financial Information available to Legislators

Budget	1991	1996	2001	2006
Financial Reports	Superficial	Superficial	Somewhat Extensive	Extensive and Thorough
Number of information requirements on Financial Reports	NONE	NONE	13	21
Number of days allowed to turn in the financial reports to the Chamber of Deputies	45	45	45	35
Hacienda's obligation to respond to deputies' inquiries	NO	NO	YES	YES
Deputies' access to the Sistema Integral de Información de los Ingresos y Gasto Público	NO	NO	YES, three committees and the Financial Research Center	YES, four committees and the Financial Research Center
Agencies' obligation to make evaluations of their policies and programs	NO	NO	YES	YES, academic institutions should carry out the evaluations
Agencies' obligation to upload public programs' information to their websites	NO	NO	YES	YES, transparency law also forces agencies
Information appendixes in appropriations laws	NO	NO	NO	YES, 20 different appendixes included in ALs

CONGRESSIONAL CONTROL OVER GOVERNMENT INCOME AND SPENDING. The process of democratization also had an effect on legislative control over government income and spending. During the PRI era, Hacienda did not have to report any reductions or changes to the federal income caused by unexpected contingencies. The 1984 appropriations law (AL), for instance, did not establish one single provision about possible reductions of government income during the fiscal year (see *Diario Oficial de la Federación* 12/29/1983). By 1991, however, the AL (article 14) compelled Hacienda to report income modifications to the Chamber of Deputies in the event that there was an income reduction that exceeded 12.5 percent of the total approved by Congress. In 1993, deputies established that Hacienda bureaucrats must report any reduction that surpassed 10 percent of the approved income. Since 2005, budget requirements establish that Hacienda bureaucrats have to report to deputies, within fifteen days, any modification to the income that reaches 1.5 billion dollars, regardless of the percent of total income approved by Congress.¹⁹ Moreover, if the modification exceeds 1.5 billion dollars, the 2005 AL instructed Hacienda to prepare a plan that specifies the reductions and cuts to be made to policy programs and agencies. The plan must then be approved by deputies within fifteen days of its submission.

During the PRI era, bureaucrats could make use of budget surpluses with hardly any legislative control, as ALs did not impose effective constraints on Hacienda and other agencies in the allocation of additional resources. That is, ALs specified only a few possible sources of income surplus and very general rules on the distribution of these

¹⁹ 2005 AL, Article 23. In 2005, 1.5 billion dollars represented 0.83 percent of the total income.

resources. The 1991 AL (article 13), for instance, only stipulated four vaguely described sources of income surplus²⁰ and there were no clear rules given regarding how this additional income should be used. Moreover, the article did not explicitly mention how the additional income obtained through oil sales (the main source of income) should be allocated.²¹ By contrast, the 2006 AL stipulated the specific items to which Hacienda should channel the income surplus obtained during the year. In this way, article 25 of this budget established fourteen possible sources of income surplus and the exact funds and programs to which Hacienda should allocate such surpluses. For example, according to subsection J of this article, the additional income obtained through a hydrocarbon tax should be allocated to the oil stabilization fund (Fondo de Estabilización de los Ingresos Petroleros).

A similar process occurred in the case of government expenditures, as the president's power to modify or cancel the amount of funds allocated to agencies and programs has been significantly constrained in ALs since 1997. Until the mid 1990s, there were no legal limits to the president's power to reduce, defer, or cancel the money allocated to public programs, even when deputies had approved it previously. The only requirement needed to make a modification was that the reduction, deferral, or cancellation of funds produced savings to the government's treasury. Since 1997, however, when the PRI lost the majority in the Chamber of Deputies, the president—through Hacienda—has been required to send a report to the Budget Committee when his

²⁰ The article only mentioned that the additional resources should be used either in productive projects, to reduce public debt, to create new public enterprises, or for the recovery of public finances.

²¹ In fact, the name of the most important government company (PEMEX) appears only one time throughout this appropriations law. By contrast, the 2005 AL includes an entire chapter that regulates the income and expenditures of this public enterprise.

modifications exceed 10 percent of the amount authorized by deputies (1998 AL, article 51). In the 2005 AL (article 34), deputies established a stipulation that instructed Hacienda to report any changes to the programs' or agencies' budgets that surpass 1.5 billion dollars.²²

Similarly, in terms of expenditures, agencies had to use their allotted funds according to an annual expenditure calendar established by Hacienda. In order to continue receiving federal funds for the implementation of their programs, agencies had to follow this calendar and report any modification in their spending to Hacienda. Until 1997, Congress did not have access to these calendars. Beginning in 1998, however, the ALs instructed Hacienda to send the calendars to the Budget Committee thirty days after being established (article 32). Additionally, agencies and Hacienda were ordered to upload such expenditure calendars and their modifications, if any, to their websites.

Regarding the allocations of funds during the non-democratic era, budgets were very vague in terms of the amount of money allotted to different sectors. Thus, deputies granted full discretion to officials to manage and control important funds such as those channeled to social expenditures and the federal transfers to states and municipalities. While the 1991 AL, for example, allocated 5.1 billion dollars to social expenditures (*solidaridad y desarrollo regional*), it did not establish any rules regarding how this fund should be distributed. The law only stipulated that the fund should be spent on social investment projects, such as housing, public water, education, and health, among others. In this way, ALs granted ample discretion to bureaucrats to decide which projects,

²² In this case, however, Hacienda only had to send a report to the Budget committee. In this way, the agency did not have to ask for the deputies' consent to make the modifications to the programs' funds.

regions, or populations should receive money. In other words, deputies granted officials the freedom to manage funds at their discretion. With great frequency, bureaucrats used this discretion for clientelistic purposes, granting strategic favors, for example, that would influence votes and tip the balance towards PRI candidates (Dresser 1991; Magaloni, Díaz-Cayeros and Estévez 2007; Greene 2007).

The bureaucrats' huge discretion to manage federal funds became constrained in 1996 when the funds began to be disaggregated in the AL. Accordingly, bureaucrats lost their power to distribute funds at their discretion. Following the previous example, in 1996 deputies specified that the social expenditure fund should be subdivided into three areas (see 1996 AL, article 16). Additionally, legislators introduced a formula—based on poverty indexes and population, among other parameters—to determine the distribution of one of these funds. The formula was published in the *Diario Oficial de la Federación* (DOF) and sent to three committees of the Chamber of Deputies. Subsequent ALs were even more detailed and explicitly established for what specific purposes federal funds should be used. For instance, the 2001 AL instructed that the fund for the states' strengthening (Programa de Fortalecimiento de las Entidades Federativas) should only be used for the financial assistance of states, their pension systems, and local infrastructure projects (see 2001 AL, article 5). Similar constraints were imposed on other budget items such as public health, education, security, poverty alleviation, public services, and federal funds transferred to states.

Another action that, in principle, reduced bureaucrats' discretion to allocate federal funds was the establishment of operating rules (*reglas de operación*) for federal

programs in ALs. Since 2000, ALs have included an entire chapter that provides general guidelines about how operating rules should be formulated. These rules established the precise objectives, instructions, procedures and formulas that executive agencies have to follow in the execution of policies and programs. This AL chapter also specified the federal programs that need to abide by operating rules. Although executive agencies formulate these rules, officials are obliged to consult with legislative committees before publishing such rules in the DOF (2000 AL, article 73).²³

While in the past, Hacienda had ample leeway to transfer federal resources to the states, recent ALs and the Ley de Coordinación Fiscal have established—based on objective parameters—the amount of federal resources to be distributed among the states.²⁴ Similarly, PRI administrations used to allow bureaucrats to freely reallocate funds from one agency to another. Since 2000, however, the Chamber of Deputies has defined clear limits on the amount of money that can be transferred from one agency to another (see, for instance, AL 2002, article 26). ALs require that Hacienda notify the Budget Committee of the Chamber of Deputies if the transfer exceeds either 10 percent of a budget item or surpasses 1 percent of the programmable expenditures.

Regarding oversight of government expenditures during the PRI era, appropriations laws stipulated that Hacienda was the institution in charge of overseeing the execution of the budget. ALs further established that the Contraloría, which was an

²³ In 2000 the AL (article 74) listed 43 federal programs that had to be regulated by operating rules. By 2006, 107 federal programs had to follow such rules (see 2006 AL, annex 16).

²⁴ The Ley de Coordinación Fiscal regulates and establishes the formulas used to determine the annual amount of money that each state will receive from diverse federal funds. This law was first enacted in 1978 by President López Portillo.

executive agency, would evaluate the efficiency of public programs.²⁵ Consequently, ALs did not explicitly instruct the Contaduría Mayor de Hacienda (Treasury Accounting Office), which was the Chamber of Deputies' oversight institution, to revise the public finances. Since 2003, however, the very first article contained in the AL explicitly ordered the ASF to supervise approved government spending in the budget and verify the accomplishment of goals and objectives.

Another important change came in 1999 when the constitution was amended in order to create the Auditoría Superior de la Federación (ASF), which replaced Contaduría Mayor de Hacienda, the previous oversight institution.²⁶ This constitutional reform, along with the enactment of the Ley de Fiscalización Superior de la Federación (LFSF) in 2000, granted more authority to the ASF to supervise public spending *-ex post-*, as well as to audit federal transfers to states and municipalities.²⁷ The LFSF further requires that Hacienda officials deliver the Public Account (or Cuenta Pública, the government's annual record of all financial operations) to the Chamber of Deputies forty days earlier than in the past. In the same vein, Hacienda is now obliged to send legislators a progress report on financial performance (Informe de Avance de la Gestión Financiera) that describes how the budget was implemented during the first six months of the fiscal year.

The ASF must also deliver its final report (Informe del Resultado de la Revisión y

²⁵ To cite an example, article 70 of the 1996 AL established that Hacienda should periodically assess the execution of the annual budget. Additionally, this article stated that the Contraloría should evaluate the agencies' goals and objectives. There was not any mention of the Contaduría. By contrast, article 1 of the 2006 AL stipulates that ASF should supervise the implementation of public expenditures.

²⁶ For a description of the inefficient work of the Contaduría Mayor de Hacienda see Ugalde (2000: 20-61).

²⁷ The Ley de Fiscalización Superior de la Federación, enacted in December 29 of 2000, replaced the old Ley Orgánica de la Contaduría Mayor de Hacienda originally enacted in 1896. In May 2009, a new law, regarding the oversight of public expenditures (Ley de Fiscalización y Rendición de Cuentas de la Federación) was enacted. This law grants more auditing and sanctioning powers to the Auditoría Superior de la Federación. Given its recent enactment, this law's effects are still unknown.

Fiscalización Superior de la Cuenta Pública), which examines Hacienda's Public Account, to the Chamber of Deputies almost seven months earlier than was previously required. Even more important, the new legislation instructs the Chamber of Deputies to vote on a *dictamen legislativo* of the Public Account after the examination and discussion of the ASF's final report (see figure 4.4).²⁸ In theory, these changes significantly improved the ASF's oversight powers (Ugalde 2000: 44, 54-55).

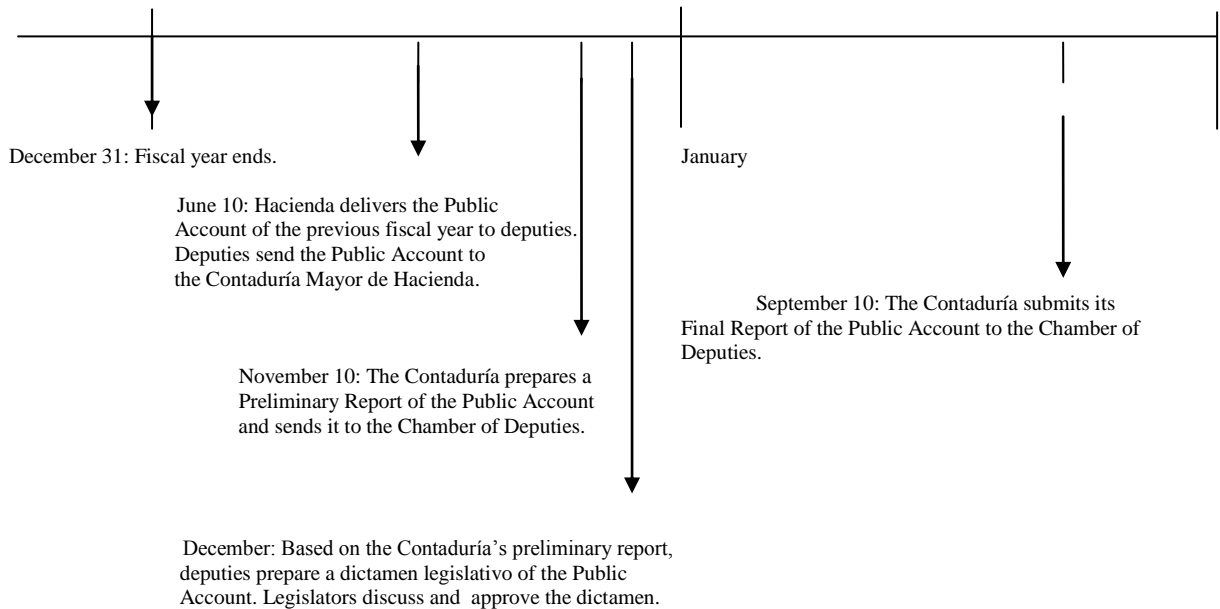
Finally, the enactment of the Ley Federal del Presupuesto y Responsabilidad Hacendaria (LFPRH) on March 30, 2006, is one of the most significant changes in budgetary legislation. This law replaced the 1976 Ley de Presupuesto, Contabilidad y Gasto Público Federal. The new law provides guidelines, limits, and rules of what deputies should include and specify in each annual budget. Hence, every annual budget has to be elaborated following the LFPRH's guidelines. Financial analysts state that this law significantly reduced public officials' leeway to design and implement public policies and programs.²⁹

²⁸ Once the *dictamen* is approved it becomes a *decreto* and is published in the Diario Oficial de la Federación. Until 2000, the Chamber of Deputies approved a dictamen about the Public Account based on a preliminary report by the ASF. Thus, deputies discussed and approved decretos without knowing the results of the ASF's final report. After the resolutions, deputies did not release any official assessments about the Public Account.

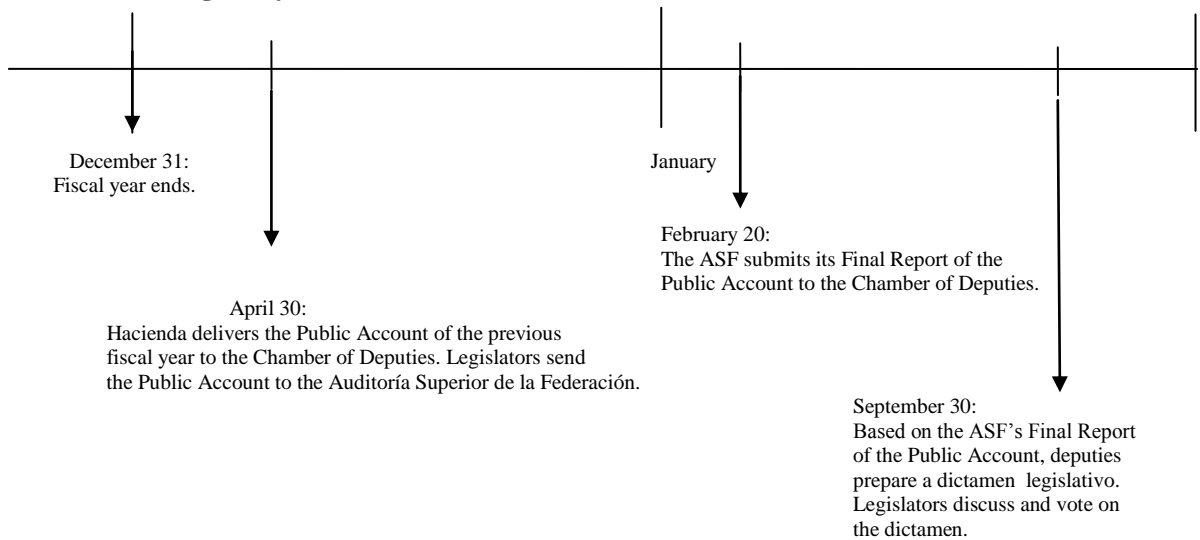
²⁹ This study does not analyze the effects of the LFPRH since it was enacted in 2006, and the great majority of its stipulations only started to have effect after January 2007.

Figure 4.4: Oversight Cycle

Before the 1999 Constitutional Reform



Current Oversight Cycle



As this section described, from 1997 to 2006 the process of democratization brought important changes to the budgetary laws (see summary of changes in table 4.5). Legislators have transformed formal rules to force Hacienda and other agencies to consistently report detailed information about the way government resources are being spent, as well as the effectiveness of the public policies and programs they fund. Regarding bureaucrats' discretion to assign, reallocate and manage the budget, members of Congress have established many constraints that, in principle, reduce officials' leeway to manage federal funds for their own purposes. All these changes seem to indicate that the dominant rational choice institutional theory applies very well in Mexico. But does this theory hold when the analysis goes beyond formal rules? What happens in real budgetary politics?

Table 4.5: Summary of Modifications to Appropriations Laws 1991-2006

Appropriations Laws' Modifications	1991	2006
	Reduction of funds:	
	Hacienda only had to report to deputies modifications that passed 12.5% of the total income	Hacienda had to report any modifications that reached 1.5 billion dollars
Income	Surplus:	
	AL specified few possible sources of income surplus and very general rules on the distribution of these resources	AL stipulated the specific items to which Hacienda should channel the income surplus obtained during the fiscal year
	Allocation of funds:	
	Deputies granted full discretion to officials to manage, control and manipulate federal funds	Deputies disaggregated federal funds and established formulas for the distribution of resources. Legislators also established for what specific purposes federal funds should be used
	Reduction, deferral and cancelation of expenditures:	
	The president did not have any legal limits to reduce, defer, or cancel funds allocated to public programs	Hacienda had to report to the Chamber of Deputies any modification that reached 1.5 billion dollars
	Expenditures Calendar:	
Expenditures	Hacienda elaborated agencies' expenditures calendars without granting access to Congress	Hacienda sent expenditures calendars to deputies; agencies had to upload such calendars to their websites
	Operating rules:	
	AL did not specify which federal programs should have operating rules	AL provided guidelines for the formulation of operating rules; AL listed 107 federal programs that must have operating rules
	Transfers to states:	
	AL gave ample discretion to Hacienda to transfer federal resources to states	AL included objective parameters to determine the transfer of funds to states
	Reallocation of funds from agency to agency:	
	Hacienda could freely reallocate funds from agency to agency	Hacienda had to report to the Chamber of Deputies if the transfer exceeded 10% of a budget item or if it surpassed 1% of the programmable expenditures
ASF	The AL did not explicitly mention that the Contaduría should revise government expenditures	The AL instructed the ASF to revise government expenses and assess public programs' efficiency

BUDGET POLITICS IN PRACTICE

Despite the fact that democratization has allowed legislators to enact stricter appropriations laws, in practice, not much has changed at all. The main reason for this is that there is a breach between the formal rules and what really happens with their implementation in the budgetary process. In this section, I illustrate why the financial information that Hacienda is required to submit is not an effective mechanism for legislator to exert control over bureaucrats. I also present evidence of how, in practice, legislative constraints on government income and expenses do not effectively reduce bureaucratic leeway.

FINANCIAL INFORMATION. As previously mentioned, legislators have included a provision in appropriations laws (ALs) that forces Hacienda to send quarterly financial reports to Congress. Moreover, the constitution and other secondary laws enjoin the ASF to send its final report of the Public Account and other financial reports to the Chamber of Deputies for analysis. Although these requirements may look like effective tools for exerting legislative control over the Hacienda bureaucracy, in practice their effects on controlling the bureaucracy are very limited. Interviews with legislators and their staff reveal that they analyze neither the Hacienda nor the ASF reports. Two former secretarios técnicos³⁰ of the Budget and Hacienda committees in both legislative chambers stated that there is no systematic review of these documents (Author interviews: August 30; November 10, 2006), and that committee members neither read

³⁰ Secretarios técnicos are congressional public servants in charge of providing non-partisan technical and legal support to committees.

the reports nor asked legislative staff to examine them. Hence, reports are usually received and promptly stacked in congressional archives. Fourteen members of the Hacienda and Budget committees (including five chairs between 1982 and 2006) confirmed the secretarios técnicos' statements³¹ (Author interviews: May 4, 18, 19, 23; August 2, 16, 23, 30; September 5, 2006).

Moreover, the quality of the information contained in the reports and the Public Account is very poor. The information is not well synthesized, raw economic data is included, and the amount of information is excessive. Underscoring this situation, a secretario técnico said, "even if deputies were interested in analyzing the reports, they would not know what the information is for" (Author interview: August 30, 2006). A top Hacienda official in charge of elaborating the economic reports argued that, in the beginning, Hacienda was very careful in the development of the reports. An entire department within the agency, he asserted, worked very hard to compile and synthesize all the economic information requested by legislators. However, the quality of the reports declined once officials noticed that members of Congress did not pay attention to them (Author interview: October 31, 2006). In interviews, fifteen more legislative staff and Hacienda officials made similar statements about the quality of the government's financial information available to legislators. Furthermore, agencies very rarely receive comments, complaints, or requests for explanations from Congress about the content of the economic reports (Author's interviews: May 5; July 19, 27; August 2, 16, 23, 25, 30; October 31; November 23, 2006 and November 24, 2008).

³¹ Secretarios técnicos from six other different legislative committees also stated that there is no systematic assessment of governmental reports.

During the period under investigation (1991-2006), deputies—either by themselves or through the ASF—denounced the low quality of Hacienda’s information and the agency’s infringements on both the ALs’ provisions and other fiscal legislation regarding financial information. That is, before democratization every single Chamber of Deputies’ *Decreto* about the Public Account disclosed that the government information was incomplete or deficient.³² In 1991, for instance, deputies denounced the low quality of information contained in the Public Account and complained that agencies did not turn in the financial reports on time (DOF 12/09/1992). The lack of complete information hindered the transparency of important government information such as taxpayer revenue, bureaucrats’ salaries, federal transfers to local states, new positions created by executive agencies, the amount of resources spent by executive agencies, the evaluations of social programs, or data about income and public expenditure (Decretos relativos a la revisión de la Cuentas de la Hacienda Pública Federal correspondiente al ejercicio fiscal 1991-1997).³³

³² See in the Diario Oficial de la Federación the Decretos relativos a la revisión de la Cuentas de la Hacienda Pública Federal correspondiente al ejercicio fiscal 1991-2001. As mentioned earlier, deputies should discuss and vote on a dictamen based on the ASF’s final report about the Public Account of every fiscal year. Once approved, the dictamen becomes a Decreto and is published in the DOF. Until January 2009, deputies had not approved the Dictámenes for the 2002, 2003, 2004, 2005 and 2006 Public Accounts despite the fact that the ASF sent its final reports to deputies on time. More important, deputies deliberately violated the constitution’s order to conclude the review of these Public Accounts by not voting on the Dictámenes before the end of 2008 (see artículo cuarto transitorio del decreto que reforma, adiciona y deroga diversas disposiciones a la Constitución Política de los Estados Unidos Mexicanos, DOF 05/07/2008). According to the newspaper *Reforma*, the dictámenes were ready to be discussed and voted on the Chambers’ floor since November 2008, yet disagreements on the dictámenes’ content among parties’ leaderships hindered the fulfillment of this constitutional mandate (Simmonet and Salazar 2008). The constitution stipulates that deputies have to complete the revision of the 2007 and 2008 Public Accounts by 2009 and 2010 respectively.

³³ DOF 12/09/1992; 12/13/1993; 12/20/1994; 12/11/1995; 12/12/1996; 12/26/1997; 12/31/1998.

Even when opposition legislators reached a majority in the Chamber of Deputies in 1997, thereby allowing them to demand greater adherence to the budgets' stipulations, Hacienda continued to depart from the information requirements established in ALs. The 1998, 1999 and 2000 Decretos, for instance, decried that Hacienda continued not to provide disaggregated taxpayer information. In particular, the 1998 Decreto asserted that the Chamber of Deputies had protested this failure to comply with the AL's requirement since 1996, but that Hacienda systematically ignored the deputies' complaint. Without this information, legislators affirmed, it is impossible to evaluate the government's taxation policy (DOF 12/31/1999; 01/04/2001; 12/31/2001).³⁴ Deputies further denounced that Hacienda violated the 1998 AL since quarterly reports during that fiscal year did not include complete information about the transfers allocated to the Public Security System (DOF 12/31/1999). Another government violation of the law during 1998 was that not all federal agencies sent their annual savings plans to the Budget committee, as required in article 50 of the AL. The 1999 and 2000 ALs reveal that there were inconsistencies between Hacienda and other agencies' information regarding income surplus (DOF 01/04/2001; 12/31/2001).

For its part, the Auditoría Superior de la Federación has also found that Hacienda has continuously infringed the information requirements established in ALs and other budgetary rules. In 2001, the ASF found that Hacienda failed to report in the Public

³⁴ The 2001 Decreto about the Public Account, which was the first evaluation of the performance of a non-PRI administration made by deputies, is very short and ambiguous. This Decreto only states that the Chamber of Deputies analyzed the Public Account and confirmed that such results did not comply with provisions and objectives established in the 2001 AL (see article 3 of the 2001 Decreto, DOF 07/21/2005). Furthermore, it is worth mentioning that deputies violated the constitution, which at that time commanded the Chamber of Deputies to approve the 2001 Decreto the year following the end of the fiscal year (i.e. in 2002). However, legislators did not approve this Decreto until April 2005.

Account that 0.26 percent of the total budget was not used during the fiscal year (ASF Informe del Resultado de la Revisión y Fiscalización Superior de la Cuenta Pública³⁵ 2001 Tomo Ejecutivo: 68). Moreover, the ASF pointed out that Hacienda did not follow their own internal rules (budget manuals and *reglamentos*) to report the government's annual public investment in the 2001 Public Account. The ASF stated that Hacienda did not disaggregate the resources spent in this budget item and, consequently, it was impossible to make an in-depth examination of how this money was spent. In particular, there were no accounting records to justify why 3.5 percent of the public infrastructure funds were not used during the fiscal year (ASF IRRFSCP 2001 Tomo III, Vol. 1: 440-476). Also in this year, the Sistema de Administración Tributaria (SAT) did not explain—despite ASF's requests—why there was a 2 billion dollar difference between two accounting records regarding fiscal credits (ASF IRRFSCP 2001 Tomo III Vol. 4: 400-407). In 2002, the ASF found that Hacienda did not report in the Public Account 1.1 billion dollars of external credits that the federal government obtained to fund its projects. This accounting error made it impossible to identify, in a precise way, the allocation of the international organization funds and whether these funds were used in social activities (ASF IRRFSCP 2002 Tomo III Vol.1: 193-216). In the same year, Hacienda failed to make public, in both the Public Account and in the quarterly reports, that the federal highway trust had liabilities of 14.3 billion dollars (ASF IRRFSCP 2002 Resumen Ejecutivo: 6). More important, the ASF detected through their audits that Hacienda had either not registered or inaccurately reported 15.9 billion dollars in the public account.

³⁵ Hereafter IRRFSCP.

This amount represents 10.89 percent of the total budget for that fiscal year (ASF IRRFSCP 2002 Resumen Ejecutivo: 29-30).

In 2003, Hacienda failed to obey several budgetary laws, such as the Ley de Ingresos de la Federación (article 29), by not revealing a list of the financial trials lost by the agency in the quarterly financial reports. The ASF's final report states that the amount of money lost by Hacienda in these trials reached 627 million dollars. Moreover, Hacienda and its agencies refused to give the ASF information regarding these lost trials (ASF IRRFSCP 2003 Resumen Ejecutivo: 7; ASF IRRFSCP 2003 Tomo III Vol. 3: 252-254).³⁶ Also in this year, Hacienda either did not report, or registered wrongly, 23.5 billion dollars (15.46 percent of the total budget) (ASF IRRFSCP 2003 Resumen Ejecutivo: 38).

In 2004, the ASF's final report noted that Hacienda changed its own performance indicators in the Public Account to assess the efficiency of the government's expenditures. According to the ASF, Hacienda changed such indicators every year since 2000 despite the ASF's caveats that this action hinders transparency in public finances, as it makes it impossible to compare and evaluate the performance of public spending across different fiscal years (ASF IRRFSCP 2004 Tomo Ejecutivo: 71-73, 76; ASF IRRFSCP 2004 Tomo III Vol. 2: 72-75). Furthermore, Hacienda violated the reglamento of the prior budget law (Ley de Presupuesto, Contabilidad y Gasto Público Federal) by not reporting the total debt of the decentralized government agencies and public enterprises in the 2004 Public Account (ASF IRRFSCP 2004 Tomo III Vol. 2: 37-38). Similarly, in

³⁶ The ASF's final report also stated that 8 trials were lost because of the Hacienda's official's negligence (ASF IRRFSCP 2003 Tomo III Vol. 3: 236-273).

2005 the ASF denounced that Hacienda violated fiscal regulations by not presenting financial information of the Public Account in accordance with the basic government accounting principles stipulated in article 87 of the reglamento of the budget law. Among other omissions, Hacienda failed to report the complete information about the government's debt from infrastructure projects (Proyectos de Infraestructura Productiva de Largo Plazo, PIDIREGAS), and also failed to account for significant variations in the spending of certain budget items.³⁷ Furthermore, the ASF found significant differences between the information presented in Hacienda's quarterly reports and the Public Account (ASF IRRFSCP 2005 Tomo III Vol. 1: 56-62). These infringements, the ASF stated in the 2005 final report, "hindered the possibility to check whether the financial, budgetary, programmatic and patrimonial information was presented in a reasonable and complete form" (ASF IRRFSCP 2005 Tomo III Vol. 1: 57).

Finally, in 2006, the ASF reported that the Tax Administration System (Servicio de Administración Tributaria, or SAT, a Hacienda agency) violated several articles of the reglamento of the current budget law (Ley Federal del Presupuesto y Responsabilidad Hacendaria) by not reporting in the Public Account the complete revenue information obtained through customs taxes. Furthermore, the SAT refused to disclose, despite four requests from ASF, the financial procedures used to calculate the annual customs taxes (ASF IRRFSCP 2006 Resumen Ejecutivo: 16-17; Tomo III Vol. 5: 434-446). In addition, the ASF has noted a series of irregularities in the operation of the customs

³⁷ For instance, the ASF's final report revealed that the budget item "pasivos en administración" had a variation of 1.3 billion dollars. This variation was not explained in the 2005 Public Account (ASF IRRFSCP 2005 Tomo III Vol. 1: 60).

service since 2001. According to the ASF, between 2001 and 2004, over 1 billion dollars of customs revenue were not deposited in the Treasury, a failure that violated the Ley de Ingresos and other fiscal regulations that stipulate that tax revenue should be deposited in the Federal Treasury. Despite the ASF's repeated attempts to audit customs operations, the SAT systematically refused to disclose its information, arguing that the customs service was exempt from such oversight because it was operated by a private firm (ISOSA) through a private trust fund (Aduanas 1).³⁸ In their final reports, the ASF alleged that the SAT allowed the involvement of this private firm in its operations as a means to manage customs revenue at its discretion. In order to halt further investigations, Hacienda submitted a constitutional challenge to the Supreme Court in 2004. During the analysis of whether the ASF had the authority to review the customs revenue, the Supreme Court found diverse irregularities in the foundation of the Aduanas 1 trust fund. One of the most noteworthy irregularities discovered was that 99.99 percent of ISOSA's stocks (which was the company responsible for operating Aduanas 1) were owned by Nacional Financiera, a government development bank (ASF IRRFSCP 2001 Tomo Ejecutivo: 85-86). Aduanas 1, then, was a private trust fund managed by a government company and the SAT. In other words, Aduanas 1 was a *de facto* public entity despite the fact that it was deliberately founded as a private fund.³⁹ Notwithstanding, in 2006 the Supreme Court ruled in favor of Hacienda's prohibition of the ASF's right to audit the

³⁸ According to the Ley Superior de Fiscalización de la Federación and other regulations, the ASF can only audit public entities.

³⁹ In 2004 Hacienda liquidated Aduanas 1 and ISOSA and founded a new public fund trust (Fideicomiso para Administrar la Contraprestación del artículo 16 de la Ley Aduanera, FACLA) that, given its public nature, can be supervised by the ASF. This public trust has also been charged for diverse wrongdoings in its management (see ASF IRRFSCP 2006 Tomo III Vol. 4: 376-406).

trust fund's finances⁴⁰ (Controversia Constitucional 84/2004; Flores 2006; Sandoval 2007). Table 4.6 shows a summary of the infringements that Hacienda committed to appropriations laws and other fiscal legislation between 1991 and 2006, as registered in the Decretos and the ASF's final reports about the Public Account.

The previous findings by both the deputies and the ASF are consistent with evaluations made by external institutions. The Latin American Budget Transparency Index assesses the degree of transparency in public expenditures and the budget cycle in general. This index gave Mexico a score of 50.4 and 53.7 in 2003 and 2005 respectively, where 0 indicates “not transparent” and 100 “totally transparent”. In 2007, despite the enactment of the new 2006 budget law, Mexico received a score of 49.7 (Fundar 2007). Similarly, the Open Budget Index evaluates the governmental provision of budget information and opportunities to participate in the budgetary process. In 2006, this Index gave Mexico a score of 50 percent out of a possible 100 percent. The score indicates that “the government provides citizens with **some information** on the central government's budget and financial activities, but that there is much room for improvement”.⁴¹ Finally, a 2006 OECD survey to assess budgetary practices and procedures revealed that budget transparency in Mexico is at an intermediate level (Curristine and Bas 2007).

⁴⁰ The Supreme Court stated that, although the Aduanas 1 trust fund had irregularities in its foundation, the object of study in this case was whether the ASF has the authority to oversee private resources. Furthermore, the Court stated that there was no constitutional challenge to determine the legality of this trust fund (Controversia Constitucional 84/2004).

⁴¹ Emphasis in original (<http://openbudgetindex.org/files/CountrySummaryMexico.pdf>). In 2008 Mexico barely improved its score, reaching just 54 percent (www.openbudgetindex.org/index.cfm?fa=rankings).

Table 4.6: Summary of Hacienda's Infringements to Appropriations Laws 1991-2006

Year	Infringement
1991	<ul style="list-style-type: none"> • Low quality of information; financial reports not turned in on time
1992	<ul style="list-style-type: none"> • Financial information not synthesized
1993	<ul style="list-style-type: none"> • No information about agencies' new positions
1994-1995	<ul style="list-style-type: none"> • No financial information about key social programs
1996-1997	<ul style="list-style-type: none"> • No information about government income expenditures
1998	<ul style="list-style-type: none"> • No information about transfers to the Public Security System and agencies' saving plans
1999-2000	<ul style="list-style-type: none"> • Information inconsistencies between Hacienda and executive agencies regarding income surplus
1998-2000	<ul style="list-style-type: none"> • No records of tax payers' information
2001	<ul style="list-style-type: none"> • No information about the 2.5% of the budget not spent • No financial information about governments' public spending
2002	<ul style="list-style-type: none"> • No information about external credits and highway trust fund's liabilities • 10.89 % of the total budget not registered or registered wrongly
2003	<ul style="list-style-type: none"> • Hacienda failed to reveal information about the fiscal trials lost • 15.46 % of the total budget not registered or registered wrongly
2004	<ul style="list-style-type: none"> • Budget's performance indicators changed • No information about total debt of decentralized government agencies
2005	<ul style="list-style-type: none"> • No adherence to government's accountability principles • No information about government's debt in infrastructure projects • No explanations about variations in public spending
2006	<ul style="list-style-type: none"> • Incomplete information about customs revenue • No disclosure of financial procedures to calculate customs taxes

CONGRESSIONAL CONTROL OVER GOVERNMENT INCOME AND PUBLIC SPENDING

As described earlier, the process of democratization allowed legislators to establish stricter budgetary laws. Yet, in practice, bureaucrats deliberately ignore the limits established in appropriations laws regarding government income and the distribution of federal funds. Hacienda officials, for example, frequently make unauthorized increases or cuts to budget items. Furthermore, bureaucrats often reassign or transfer funds from one agency or program to others without congressional approval. In the same vein, Hacienda does not report all of its financial operations. Although budgetary legislation allowed bureaucrats to make certain modifications, investigations by the ASF and various think tanks, as well as personal interviews with Hacienda bureaucrats, revealed that such changes either transgressed budgetary laws or were not justified. The following section documents Hacienda's deviations from budgetary rules between 1991 and 2006.

Between 1991 and 1997, Hacienda and other executive agencies violated diverse budgetary laws, as documented in the Chamber of Deputies' Decretos about the Public Account. Among the most important transgressions were: agencies' unauthorized budget modifications, changes in programs' objectives during the fiscal year, excessive variation between the implemented and approved budget, discretionary distribution of income surplus, lack of transparency and control in the allocation of subsidies and economic transfers to states, unauthorized reallocations of public funds, and underspending of

public programs' funds (Decretos relativos a la revisión de las Cuentas de la Hacienda Pública Federal 1991-1997).⁴²

Despite the opposition's triumph in the 1997 midterm congressional election, legislators were not able to exert effective control over the bureaucracy, and Hacienda's violations of budgetary regulations persisted. In terms of public financing, for instance, each year deputies grant Hacienda the authority to finance long-term infrastructure projects (PIDIREGAS) proposed by private companies. In order to be financed, these projects have to comply with several technical requirements established in ALs. Hacienda must evaluate and provide a technical report about the viability of the projects that follows a specific methodology. Despite the strict rules regulating the infrastructure projects, the ASF uncovered that, from 1997 to 2000, Hacienda funded 83 out of 105 projects that did not have a positive technical rating (ASF IRRFSCP 2000 Tomo Ejecutivo).⁴³ In the same vein, public officials from diverse agencies continued to either overspend or underspend budget funds allocated to public policies and programs. In 1998, for instance, two decentralized agencies (IMSS and Luz y Fuerza del Centro) managed to overspend 286 million dollars.⁴⁴

Moreover, Hacienda bureaucrats repeatedly failed to respect budget stipulations regarding the allocation of funds. Congressional Decretos about the Public Account, for example, denounced the fact that, in every fiscal year between 1996 and 2000, Hacienda

⁴² See DOF 12/09/1992; 12/13/1993; 12/20/1994; 12/11/1995; 12/12/1996; 12/26/1997, and 12/24/1998.

⁴³ This Auditoria's final report was reviewed through the ASF's website: www.asf.gob.mx/trans/Informes/IR2000i/ir2000/Ejecutivo/Ejec.htm#_Toc18555892. This electronic version does not have page numbers.

⁴⁴ The overspending of some agencies was much bigger. In 1999, for instance, one office of the Secretaría de Agricultura, Ganadería y Desarrollo Rural overspent 892.3% of the amount authorized by the Chamber of Deputies (Decreto 1999, DOF 01/04/2001).

used funds from annual budgets to pay previous fiscal debts. The funds for these payments were neither considered in annual budgets nor authorized by deputies. In the same vein, between 1998 and 2000 Hacienda transferred funds and made donations and subsidies to states and private or public institutions. Hacienda neither registered these operations in its accounting records nor justified them in the Public Account. Deputies also stressed that Hacienda continued to fail to comply with government accounting principles and other budgetary stipulations that regulate financial operations (Decretos relativos a la revisión de la Cuentas de la Hacienda Pública Federal 1998-2000).⁴⁵

The change of regime that came with the PAN's victory in the 2000 presidential election did not significantly increase the level of effective legislative control over Hacienda and other bureaucratic agencies. Since 2001, the ASF's final reports have revealed the agencies' continued lack of adherence to budgetary laws. Figure 4.5 shows the federal agencies' infringements of the main budgetary laws⁴⁶ between 2001 and 2006. As can be observed, far from having a decrease in the number of violations of budgetary laws, the ASF has detected more infringements committed by federal agencies every year.

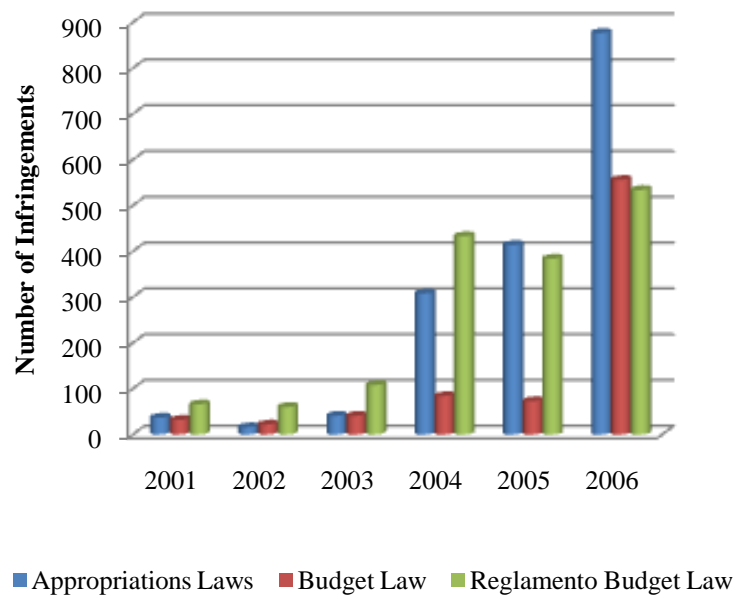
Interviews with Hacienda officials confirmed the persistence of high bureaucratic discretion in the democratic era. A former top-level Hacienda official asserted that the agency makes over 1000 modifications to the budget every year without the consent of Congress. Moreover, he claimed that neither Congress nor the ASF has noticed any of

⁴⁵ See DOF 12/31/1999; 01/04/2001, and 12/31/2001.

⁴⁶ These laws are: Presupuesto de Egresos de la Federación (appropriations law), Ley de Presupuesto, Contabilidad y Gasto Público Federal (Budget, Accounting and Federal Public Spending Law), and Reglamento de la Ley de Presupuesto, Contabilidad y Gasto Público Federal.

these modifications (Author interview: August 2, 2006). Hacienda chooses not to disclose all of the important financial information to legislators so that bureaucrats can make modifications to the budget without the approval of Congress (Author interview: October 31, 2006). Hence, even in the case that deputies or the ASF could find certain unlawful activities in the Hacienda reports, officials can still cover up their maneuverings.

Figure 4.5: Agencies' Infringements of Budgetary Laws 2001-2006



The statements made by legislators and bureaucrats in interviews have been corroborated by ASF audits and by investigations made by both think tanks and the media. In 2001, the first year of Vicente Fox's administration, Hacienda deliberately failed to register liabilities from the bank rescue program (IPAB) and from long-term

private infrastructure projects (PIDIREGAS) as direct public debt. The ASF stated that this omission distorted the information on the public debt and, consequently, had an important impact on public finances. Also in 2001, Hacienda was involved in an unlawful activity when one of its offices, the General Administration Collection Office, failed to deposit customs revenue in the Federal Treasury, thereby ignoring diverse accounting manuals and legislation (ASF IRRFSCP 2001Tomo III Vol. 1: 320-399). Similarly, in 2002 and 2003, Hacienda did not adhere to article 24 of the AL since the agency allowed the overspending of diverse decentralized agencies.⁴⁷ The total unauthorized amount was 317.2 and 127.8 million dollars in 2002 and 2003 respectively (ASF IRRFSCP 2002 Tomo Ejecutivo: 133-134; ASF IRRFSCP 2003 Tomo Ejecutivo: 146-147). The Mexico City newspaper *Reforma* detected that, in 2006, certain government agencies spent more money than the amount approved in the annual budget. According to *Reforma*, the agencies whose spending exceeded the amount authorized by the Chamber of Deputies in 2006 were: Secretaría de Energía: 194 percent; Hacienda: 38 percent; Gobernación: 33.6 percent; Relaciones Exteriores: 20.9 percent; and the Office of the President: 17.6 percent. Hacienda bureaucrats explained that these increases were possible due to the oil surplus and that such modifications were allowed in the 2006 AL. However, analysts from FUNDAR, a Mexican think tank, argued that Hacienda neither clearly explained such increases, nor accounted for the allocation of the oil surplus to these specific agencies (Almanza 2007). Hacienda further infringed on budgetary legislation by not spending Congress' authorized budget resources. In 2002, for instance,

⁴⁷ The agencies that had overspending were CFE, ISSSTE, LFC and PEMEX.

29.8 percent of funds allocated to operating expenditures (*gasto corriente*), which is equivalent to 424.2 million dollars, were not spent due to Hacienda's deficient planning to disburse federal resources (ASF IRRFSCP 2002 Tomo III Vol. 1: 275; 253-309).⁴⁸

Regarding Hacienda's transfers to states, the PRI administrations were not the only ones that committed irregularities to benefit their party, as the National Action Party (PAN) committed similarly suspicious actions in the democratic period. On the last day of the 2003 fiscal year, for example, Hacienda transferred 260.6 million dollars to the Infrastructure Investment Fund (FINFRA). This amount surpassed the original resources authorized for this fund by 290.7 percent. Furthermore, Hacienda did not establish in the fund's operating rules the specific objectives and goals on which the resources should be spent. Therefore, the fund's technical committee, which is composed of Hacienda and other government officials, had ample leeway to manage these resources (ASF IRRFSCP 2003 Tomo III, Vol. 1: 537-551). There were other financial wrongdoings committed by Hacienda in 2003. One of its greatest failings was that the agency infringed the *Ley de Ingresos de la Federación* by not disclosing important fiscal credit information to Congress. In addition to not revealing the number of lost fiscal trials and its impact on public finances, Hacienda failed to register and validate 1.48 billion dollars obtained through taxpayer penalties and fines (ASF IRRFSCP 2003 Tomo III Vol. 3: 236-273).

The control over the management of public finances did not increase significantly with the arrival of democracy in Mexico. Since its creation in 2000, the ASF has repeatedly protested the government's lack of objective indicators and parameters to

⁴⁸ The ASF report pointed out that while some agencies obtained an increase in their budgets, they did not even spend the original allocated amount (ASF IRRFSCP 2002 Tomo III Vol. 1: 275-276).

assess the efficacy of budget implementation. Hacienda, for instance, modified the budget's programmatic structure several times. Such modifications hindered the possibility to evaluate and compare the performance and efficacy of public expenditures across different fiscal years. As a consequence, it was impossible to assess whether the agencies used public finances efficiently. Furthermore, Hacienda has ignored numerous recommendations by the ASF to establish financial indicators that relate program goals with public expenditures. The ASF stated in its reports since 2000 that the lack of indicators produced opacity and uncertainty in the management of public resources (ASF IRRFSCP 2004 Tomo Ejecutivo: 71, 59- 76; ASF IRRFSCP 2005 Tomo Ejecutivo: 101-103).

Other financial agencies also violated congressional norms. In 2003, for instance, the Sociedad Hipotecaria Federal, a Hacienda development bank in charge of providing housing subsidies, infringed articles 51 and 52 of the budget and the Ley de Presupuesto, Contabilidad y Gasto Corriente, by perpetrating several wrongdoings. Among the most flagrant misdeeds were: the granting of subsidies by larger amounts than allowed in the operating rules; the subsidization of groupings that did not qualify for government assistance; and the targeting of financial support to certain regions of the country, leaving aside other areas where subsidies that also deserved subsidies (ASF IRRFSCP 2003 Tomo III Vol. 3: 523-596).

Another Hacienda agency that operated with lack of transparency was the Tesorería de la Federación (Federal Treasury). In 2005, the ASF audit found diverse irregularities within this agency that infringed on the Ley del Presupuesto and other fiscal

and accounting manuals. Among the most important wrongdoings were that the agency did not have a systematized accounting system to control and register the federal government's economic transfers and that the Tesorería made inappropriate transfers into its accounts. Consequently, the Tesorería incorrectly registered 218.7 billion dollars in 2005 alone (ASF IRRFSCP 2005 Tomo III Vol. 1: 568-609). In 2006, the Tesorería again violated the Ley del Presupuesto and other fiscal legislation by making irregular transfers (ASF IRRFSCP Tomo III Vol. 2: 133-162). For its part, the SAT (another Hacienda agency) likewise has managed federal resources with opacity. In 2005, the ASF detected that 27 percent of the SAT's resources were transferred to a public trust (FIDEMICA)⁴⁹ that did not have specific operating rules or guidelines. More important, the money transferred to the FIDEMICA was neither used by the trust nor returned to the Federal Treasury; an action that infringed the Ley de Ingresos, which stipulates that all public funds not used during the year should be returned to the Treasury (ASF IRRFSCP 2005 Tomo III Vol.5: 515-524).

The lack of adherence to regulations was no different in Hacienda's administration of the external debt. In 2001 and 2003, the ASF found diverse irregularities due to a lack of transparency in the management of a specific external debt category (Brady Bonds). Despite the ASF's repeated requests to clarify the accounting records of this item, in 2004 the ASF detected that 47.3 percent of the government's debt had irregularities equivalent to 1.2 billion dollars (ASF IRRFSCP 2004 Tomo III Vol. 2: 169-184).

⁴⁹ Fideicomiso Programa de Mejoramiento de los Medios de Informática y Control de las Autoridades Aduaneras.

Despite the enactment of stricter rules regarding the implementation of the budget, in practice, public officials still had great discretion to operate, given that they either ignored the new legislation or modified the programs' operation rules at their convenience in order to continue managing public funds at their will. For example, the management of the Oil Stabilization Fund, or FEIP (whose resources come from the oil income surplus) has been severely criticized by various think tanks, the media, and opposition legislators because of the great discretion with which it is used (e.g. Moreno and Dávila 2004; Shields 2005; Barranco 2007). These assertions have been confirmed by the ASF's audits. In 2004, the ASF detected that Hacienda, through the fund's technical committee, enjoyed ample leeway to use the resources, which amounted to 1.1 billion dollars. The audit also revealed that the FEIP's technical committee used 61.3 percent of the resources to contract and pay for (in advance) an oil insurance policy for the 2004-2005 period. According to the ASF, the 2004 appropriations law only authorized the use of the FEIP resources in the event of a reduction in oil revenue during the year, and not for the purchase of oil insurance. In response, Hacienda said that the fund's operating rules, which were made by its officials, granted Hacienda authority to withdraw resources from the fund to pay for the oil insurance coverage. The ASF replied by stating that the operating rules violated article 25 of the 2004 AL, given that the law did not explicitly authorize the use of the FEIP's money for this purpose (ASF IRRFSCP 2004 Tomo III Vol. 2: 118-136).⁵⁰ There were also irregularities in the administration of

⁵⁰ Furthermore, the ASF also claimed that the AL has greater legal hierarchy over the funds' operating rules due to the fact that the former was approved by the Chamber of Deputies while the latter was a secondary regulation derived from a congressional act. Hence, the ASF concluded that the operating rules cannot grant more authority to the technical committee than already established in ALs.

the FEIP in 2005 and 2006. In 2005, the ASF once again found contradictions between FEIP's operating rules and the budget provisions that allowed the discretionary management of the fund, while in 2006 Hacienda was accused of not transferring 1.2 billion dollars to the FEIP as stipulated in the Ley del Presupuesto and other regulations (ASF IRRFSCP 2005 Tomo III Vol. 2: 37-62; ASF IRRFSCP 2006: 210-235).

Hacienda also has huge discretion in the management of additional resources not considered in the appropriations law, such as the confiscation of goods coming from criminal activities. In a 2006 audit, the ASF reported that there was no control over the illegal goods that Hacienda impounds. Thus, there were no official records listing all of the goods confiscated during the year. According to former Hacienda officials, the agency uses these resources for clientelistic purposes (Author's interview: September 17; October 31, 2006). For instance, Hacienda offers confiscated goods such as tons of clothing or electronic devices to legislators in exchange for passing certain stipulations in laws or for maintaining the status quo. Members of Congress distribute these goods to their cronies or constituents.

Hacienda has also failed to respect congressional rules on how extra money obtained from the oil surplus should be allocated (Author interview: August 16, 2006). Although the new budget law established a formula to distribute the oil surplus among states and social policies, Hacienda did not specify in detail how the money should be channeled to public programs (Author interview: May 31, 2006). Even a PAN deputy, Moisés Alcalde, affirmed that Hacienda received approximately 4 billion dollars from oil

surpluses between 2000 and 2006, and that deputies did not know the exact way in which the agency allocated the money (López 2006).

The previous statements coincide with the findings of the ASF audits. In the democratic era, Hacienda has systematically ignored budget stipulations regarding the distribution of oil surplus revenues. In 2003, for instance, the ASF detected diverse irregularities in the distribution of 8.34 billion dollars (ASF IRRFSCP 2003 Tomo III Vol. 1: 446-470). In 2004 there were several wrongdoings; the most relevant was that Hacienda did not present any accounting record or financial document to prove that 25 percent of excess revenue (1.1 billion dollars) was allocated to improve the government's budgetary balance (ASF IRRFSCP 2004 Tomo III Vol. 2: 216-246).⁵¹ According to the ASF's 2005 report, between 2003 and 2004 Hacienda took 2.9 billion dollars from the oil surplus revenue to pay debts from diverse public enterprises. This action was not stipulated in the 2003 and 2004 appropriations laws, and deputies never approved this change. And while Hacienda also transferred 7 million dollars from the oil revenue fund to pay previous fiscal debts in 2003, the ASF report revealed that there were no financial records that corroborated this operation (ASF IRRFSCP 2005 Tomo III Vol. 2: 62-63). Hacienda continued to infringe several articles of the appropriations law and other legislation regarding the oil surplus fund in 2005. Among the most significant violations were that Hacienda did not present enough evidence to prove the transfer of 487.7 million dollars from the oil surplus to the natural disasters fund, and that officials used

⁵¹ This omission infringed articles 81 and 82 of the reglamento of the Ley de Presupuesto, Contabilidad y Gasto Público. In 2003 there was a similar irregularity for 622.7 million dollars (ASF IRRFSCP 2004 Tomo III Vol. 2: 231).

Hacienda's internal rules to invest the oil money in non-profitable financial operations. In fact, the ASF stated that an additional 3 billion dollars could have been earned had Hacienda invested the oil money in government bonds. Furthermore, the ASF stated that Hacienda continued to have significant leeway to transfer money from this fund to others, and subsequently asked deputies to set more constraints in the AL (ASF IRRFSCP 2005 Tomo III Vol. 2: 62; 72-80). Finally, in 2006 Hacienda infringed article 25 of the AL by not providing evidence that 4.89 percent of the excess revenue was allotted to investments in infrastructure, and by using 9.45 percent of the resources to cover the federal taxes of other government agencies.⁵² In both years, the ASF denounced that, in practice, Hacienda had ample discretion to manage the excess revenue, and urged Congress to enact more detailed legislation to prevent future abuses (ASF IRRFSCP 2006 Tomo III Vol. 2: 290-321).

Although fiscal legislation has been stricter since 1997, in practice, significant bureaucratic leeway has persisted in governmental subsidies and public financing. Stated differently, government agencies have great discretion to make donations (contributions) to private and public institutions. In contrast to the previous examples where there were detailed regulations for the disbursement and allocation of funds, there are no specific guidelines to grant and control transfers in the case of donations. Similarly, there are no internal rules to verify that donations are used to accomplish pre-established goals. The lack of specific regulations has allowed executive agencies to make donations with great discretion. In 2000, for instance, Hacienda spent 1.9 billion dollars more than the original

⁵² In 2006 the excess revenue obtained from oil sales reached 9.1 billion dollars.

amount approved in the annual budget on contributions to diverse non-governmental institutions (ASF IRRFSCP 2000). Hacienda made donations mainly during the last three months of the fiscal year to “cover” the underspending of various agencies (Martínez 2008a). The ASF, think tanks, the media, and NGOs have constantly denounced the huge leeway enjoyed by bureaucrats to grant donations and have asked Hacienda and legislators to establish specific guidelines to control them. Notwithstanding, Hacienda and members of Congress have systematically ignored these requests (ASF IRRFSCP 2005 Tomo Ejecutivo: 96-97; Marí 2007; Pirker, Arias and Ireta 2007; Garduño 2008; Martínez 2008b). Table 4.7 summarizes Hacienda’s main infringements to budgetary laws in terms of the allocation and reallocation of funds.

In sum, as regards the budgetary process, the rule of law in Mexico is deficient. Whereas Hacienda bureaucrats do not respect the procedures established by legislators, deputies do not effectively use their oversight powers. Thus, although deputies have reduced bureaucratic discretion in laws, in practice, bureaucrats still have ample room to manage the budget according to their interests. What explains the lack of effective legislative control over the budgetary process in democratic Mexico? Why do legislators tolerate significant bureaucratic discretion in budget implementation?

Table 4.7: Summary of Hacienda's infringements to appropriations laws in terms of allocation and reallocation of funds

Year	Infringement	
1991-1997	<ul style="list-style-type: none"> • Misuse of money allocated for public programs • Agencies' unauthorized budget modifications • Changes in programs' objectives during the fiscal year • Excessive variation between the implemented and approved budget • Failure to comply with legal accounting principles • Underspending of public programs' funds 	<ul style="list-style-type: none"> • Partial fulfillment of agencies' goals • Discretionary distribution of income surplus • Lack of control in the allocation of subsidies and economic transfers to states • Unauthorized reallocations of public funds
1997-2000	<ul style="list-style-type: none"> • Funding of infrastructure projects without positive technical rating • Overspending and underspending of budget funds • Unauthorized disbursement of budget funds to pay previous fiscal debts 	<ul style="list-style-type: none"> • Unauthorized economic transfers, donations and subsidies • Failure to comply with government accounting principles and other budgetary stipulations that regulate financial operations
2001-2006	<ul style="list-style-type: none"> • Unauthorized budget modifications • No disclosure of financial information • Failure to comply with diverse accounting manuals • Agencies' overspending and underspending • Unauthorized transfers to public trusts • Lack of indicators and parameters to assess budget efficacy 	<ul style="list-style-type: none"> • Irregular subsidies and donations to public and private institutions • Lack of transparency in the managing of the public debt • Contradiction between operations rules and budget's stipulations • Lack of adherence to budget's stipulations to manage excess revenue

APPLYING THE MUTUAL INFLUENCE THEORY TO FISCAL POLITICS

The mutual influence theory explained in chapter 2 states that bureaucrats and legislators interact in all stages of policymaking. This interaction is observed in the relationship between Hacienda officials and members of the Hacienda and Budget committees. Hacienda bureaucrats pay great attention to what is proposed and discussed by the Hacienda and Budget committees of Congress.⁵³ In fact, there is a special office within the agency that oversees all legislators' bills. This office monitors those bills made in the Hacienda and Budget committees as well as those initiatives elaborated by the rest of the committees.⁵⁴ Hacienda officials have access to committee meetings. They take detailed notes of what bills or resolutions are being discussed, who proposed them, and which legislators are against and in favor. Using this information, Hacienda officials make daily reports to a coordinator, who synthesizes the information and sends weekly reports to the Secretary of Hacienda and other top-level officials about what is happening in Congress. This information is used to protect the agency against congressional actions that may affect the agency's interests. In the same vein, Hacienda's information about the committee meetings allows bureaucrats to plan political strategies to pass or block important legislation (Author interviews: July 19, 2006; November 24, 2008; February 10, 2009).

⁵³ Since the Chamber of Deputies is the only body that discusses and approves the AL, there is no budget committee in the Senate.

⁵⁴ The Secretaría de Gobernación also has a specialized office that monitors Congress's activities. This office also has a team of officials that attend committee meetings. However, according to a former Gobernación official, Hacienda exerts more influence on legislators than Gobernación (Author interview: February 10, 2009).

Hacienda bureaucrats and members of Congress also interact in the discussion of the appropriations and other fiscal bills. With frequency, legislators invite top-level bureaucrats to committee meetings to ask for technical advice. In fact, information obtained from interviews revealed that legislators from the president's party introduced bills that had been developed by Hacienda officials. That is, although members of Congress claim that they elaborated fiscal bills, in reality, these bills were planned and written by Hacienda bureaucrats (Author interviews: July 19, 27, 2006; February 10, 2009).⁵⁵ In the specific case of the appropriations bill, although the president has the exclusive power to prepare it, bureaucrats occasionally consult with legislators regarding some budget items before the bill is submitted to the Chamber of Deputies (Sour 2007).

Once bills are introduced into Congress and discussed in committees, officials and legislators enter into a bargaining process whereby both actors influence each other. Legislators, for example, seek to increase, cut, or reallocate funds of the appropriations bill. For their part, officials either try to avoid significant changes or seek to increase certain budget items (Sour 2007). In both cases, officials persuade legislators to comply with their requests through diverse methods.⁵⁶ In the two-step method, for instance, Hacienda first offers various goods (such as food, clothing or money) to legislators so they can distribute them among their constituents for political gain. Lawmakers return

⁵⁵ According to some informants, Hacienda also prepares bills for opposition legislators; especially for those opposition legislators that are chairs of important legislative committees (Author interviews: July 19, 27; September 23; 2006; January 7, 2007).

⁵⁶ The Budget committee and the Junta de Coordinación Política, which is formed by the party leaders in the Chamber of Deputies, are the two legislative bodies that concentrate the budgetary negotiation with Hacienda. Accordingly, the rest of the committees have indirect participation and influence on the budget process (Caballero y Dávila 2007). The Budget committee and the Junta de Coordinación Política's monopoly over the budget negotiation favor Hacienda since the agency has to deal only with two legislative bodies.

the favor either by maintaining the status quo or by passing diverse provisions that Hacienda wants to have included in fiscal laws. In the case that some legislators refuse to accept Hacienda's requests, in a second step, bureaucrats threaten them with audits to their personal finances or companies. Ultimately, "legislators end up doing what Hacienda wants" (Author interviews: July 19; August 23, 2006; July 1st, 2007). Another bureaucratic method to manipulate lawmakers' behavior is to grant special fiscal treatment to interest groups or companies that support politicians' careers. Legislators, then, frequently meet with bureaucrats to ask for favors for themselves or their constituents. Upon legislators' requests, Hacienda postpones or calls off audits to those local companies that infringed fiscal laws. In the same way, Hacienda, if asked by legislators, breaks its own rules and offers tax breaks, renegotiates debts or fails to penalize individuals that infringed fiscal legislation (Author interviews July 19, October 31, 2006).

The previous statements are consistent with the fiscal privileges that Hacienda grants to some private companies. During the PRI era, Hacienda established a fiscal system that included tax exemptions and privileges for companies and entrepreneurs that supported the regime (Nuño 2008). Although divided government has prevailed since 1997 and the PRI lost the presidency in 2000, the fiscal privilege system continues. That is, despite democratization, members of Congress have tolerated special fiscal treatment that benefits certain business groups and individuals. The ASF has documented this inequity in the fiscal system. According to a 2005 ASF audit, fiscal laws exempted some private companies and entrepreneurs from paying taxes. The companies that benefited

were involved in the stock market, agriculture, and department stores, among others. Moreover, the ASF noted that billions of pesos were disbursed to companies and tax payers in tax refunds. These tax refunds were highly concentrated. In other words, Hacienda disproportionally gave huge tax returns to a few business sectors such as the car industry, private financial companies and department stores. Between 2000 and 2005, 67.9 billion dollars were refunded to these companies. Just in 2005, Hacienda returned 14.9 billion dollars. This figure was equivalent to 15 percent of the total taxes collected during the fiscal year.⁵⁷ Furthermore, 76.5 percent of the 14.9 billion were refunded only to 398 taxpayers. It was noteworthy that 100 entrepreneurs, who had an annual income of at least 5 million dollars, ended up paying Hacienda less than 7 dollars after tax refunds (ASF IRRSCPF 2005 Tomo Ejecutivo: 103-104; ASF IRRFSCP 2005 Tomo III Vol. 1: 364-392).

Special treatment was also given to some individuals and companies that have fiscal debts with Hacienda. In 2005, for instance, Hacienda registered 49.5 billion dollars in fiscal debts. This amount represented 98.5 percent of the central public administration's programmable spending. The ASF detected that 0.04 percent of the debtors owed 48.3 percent of the total fiscal debt.⁵⁸ One bank, for example, owed Hacienda 2.4 billion dollars, while three other banks were responsible for 2.8 billion. The latter figure surpassed the federal funds allocated to public health or social development.

⁵⁷ The ASF stated that this money could have afforded 84.6 percent of the government's pension system (ASF IRRFSCP 2005 Tomo III Vol. 1: 365)

⁵⁸ The total number of debtors was 668,545. Hence, while only 298 debtors were responsible for 48.3% of the debt (each debtor owed, on average, 11 million dollars), 668,247 debtors owed 51.7 % of the total fiscal debt (each one of these debtors owed, on average, 12 thousand dollars) (ASF IRRFSCP 2005 Tomo III Vol. 5: 185).

Moreover, the ASF found that Hacienda recovered only 1.7 percent of this money by the end of the fiscal year, and that Hacienda did not take any action to recover the debts. Finally, the ASF uncovered that fifty-one individuals and companies received tax refunds despite the fact that they had significant fiscal debts with Hacienda. The ASF concluded that the low recovery rates were due to the fiscal privileges and preferential systems established in laws and urged Congress to enact stricter legislation to counter this trend (ASF IRRFSCP 2005 Tomo Ejecutivo 144-145; ASF IRRFSCP 2005 Tomo III Vol. 5: 172-210).

Why do members of Congress tolerate the existence fiscal privileges for certain private companies? Why do legislators not modify legislation to impede fiscal inequity? If these special tax systems were established in the PRI era, why do legislators tolerate them under democracy? Put differently, why has democracy not eradicated these privileges? Information from interviews revealed that legislators allow the persistence of fiscal privileges in exchange for diverse benefits for themselves or for political groups that support them. As mentioned earlier, these resources can range from money to material goods or favors. In this way, bureaucrats “buy” discretion for implementing a special tax system (Author interviews: July 19; October 31; December 15, 2006; July 1st, 2007). Without the exchange of handouts for discretion, it is very hard to understand why legislators continue to allow Hacienda’s inequities in the fiscal system.

Once fiscal bills and the AL are approved, the implementation of the budget stipulations, programs and policies is delegated to bureaucrats. In this stage, officials and legislators continue to interact but indirectly and on an irregular basis. Lawmakers have

scarce interest in exercising their oversight functions. Once the AL is approved, legislators from the financial committees do not systematically monitor whether Hacienda is financing social programs. In fact, legislators give more priority to other legislative activities such as the initiation of bills and the elaboration of non-binding resolutions than to the oversight of policies. A parliamentary survey given to Mexican deputies in 2003 revealed that only 1.6 percent considers “controlling government activities” as their main legislative function (Universidad de Salamanca and Centro de Estudios Sociales y de Opinión Pública 2006: 95). Accordingly, there was no systematic effort to ascertain whether bureaucrats, in fact, implemented the federal budget exactly as it was approved by deputies. In the best scenario, legislators either ask public officials to appear before committees or propose *puntos de acuerdo* in order to solve program failures. However, in both actions legislative control is inefficient and very superficial. In the case of *comparecencias* (officials’ appearances before congressional committees) 90 percent of the legislators and bureaucrats interviewed said that they are not very helpful in solving problems or correcting agencies’ mistakes. During these meetings, lawmakers ask bureaucrats many questions and demand actions but, once the comparecencia is over, they do not supervise whether bureaucrats solved the problem. With regard to the *puntos de acuerdo*, these are non-binding resolutions to which agencies do not necessarily pay attention. Members of Congress exert their control powers over the bureaucracy only in cases when there is a media scandal on corruption or when a policy is affecting their political interests.

Why do legislators not exert their control powers over Hacienda? Lawmakers allow bureaucrats to carry out policies and programs with great discretion in exchange for diverse handouts or favors. As it was explained above, officials implicitly or explicitly provide legislators with different resources that the latter need for their political careers. Hacienda officials, for instance, exert leverage over key legislators from the financial committees by promising them positions within the agency or other governmental institutions once they finish their legislative terms. Given the no reelection rule, chairs and *secretarios* of the Hacienda and Budget committees are aware that once they leave Congress, Hacienda may hire them. As a consequence, these legislators maintain a friendly relationship with top-level officials by approving (or excluding) certain fiscal provisions that Hacienda would like to have integrated in legislation, or by not exerting their control powers (Author interviews: August 2; 23, 2006).

The close relationship between Hacienda and the financial committees is also due to the fact that some key legislators previously worked as public officials. That is, some high-ranking Hacienda officials leave their posts to become legislators. Information from interviews indicates that top-level Hacienda officials frequently designate one or two of their subordinates and ask the president's party to include them in its proportional representation lists. Once these public servants become legislators, they occupy key positions within the Hacienda and Budget committees. In this way, every legislative term the agency has close allies that protect its interests in Congress. As soon as the congressional term is over, some of these individuals are rehired by Hacienda or by one of its financial institutions (Author interviews: July 19; 26, 2006).

An analysis of the political trajectories of the financial committees' chairs reveals that there are two main career paths followed by these politicians: either government officials leave their posts and get important positions within Congress' financial committees, or legislators become government officials once the legislative term is over. In some cases, there is a revolving door between Congress and Hacienda. That is, top-level bureaucrats go to Congress, occupy relevant positions in the Hacienda or Budget committees and, once the legislative term ends, are rehired by Hacienda or other government financial institutions. These career paths were followed by most chairs of the Hacienda and Budget committees in the Chamber of Deputies between 1991 and 2006 (see Tables 4.8 and 4.9).⁵⁹ Specifically, 42 percent of the committee chairs followed the first career path (government official → chair of financial committee), while another 42 percent followed the second career path (chair of financial committee → government official). In the case of the revolving door (government official → chair of financial committee → government official), 21 percent of the chairs in this period pursued this path.⁶⁰

⁵⁹ While the Hacienda committee was headed by a former Hacienda official during the LX Legislature (2006-2009), the chair of the Budget committee was a member of three governing boards (NAFIN, IMSS and INFONAVIT). Furthermore, four members of the Hacienda committee (including 3 key positions) previously worked for Hacienda while five members of the Budget committee (including 3 secretarios) were public servants for the same agency. Additionally, a member of the Budget committee left his seat in the Chamber of Deputies and became chief advisor of the Hacienda secretary (*Reforma*, February 26, 2008).

⁶⁰ The 21 percent of the committee chairs that followed the revolving door path is included in the 84 percent that pursued one of the two other paths. It is remarkable that with the exception of Ángel Aguirre Rivero, chair of the Budget Committee in the LIX Legislature (2003-2006), all legislators that headed the financial committees in this period got their seat in the Chamber of Deputies through the proportional representation system. This fact is consistent with information from some interviewees who stated that political parties include experienced public officials in their proportional representation lists in order to put them in key positions within the financial committees.

Table 4.8: Career Paths of the Chairs of the Hacienda Committee in the Chamber of Deputies 1991-2006

Legislature	Chair	Previous public administration experience (most relevant positions)		Public Administration Positions after leaving Congress	
LV 1991-1994	Ángel Aceves Saucedo ⁶¹ PRI	1963-1967	Researcher, Office of Fiscal Studies, Secretaría de Hacienda y Crédito Público (SHCP)	1995	Special Advisor, PEMEX
		1971	Chief of advisors, Industry and Commerce Ministry	1996-1997	General Director of Federal Entities (SHCP)
		1988-1989	General Coordinator of Basic Provisions and Distribution, Federal District Department		
		1989-1990	Associate Director of Nacional Financiera (Development Bank)		
LVI 1994-1997	Francisco Suárez Dávila ⁶² PRI	1982-1988	Undersecretary of Hacienda	1999-2000	Mexican Ambassador to the OECD
		1988-1991	General Director of Banco Mexicano SOMEX		
		1992-1994	General Director of Banco Obrero		
LVII 1997-2000	Ángel Aceves Saucedo (1997-1999) PRI	1995	Special Advisor, PEMEX	1999-2003	President of the National Commission for the Protection of Users of Financial Services (CONDUSEF, SHCP)

⁶¹ Aceves was federal deputy in the LI Legislature (1979-1982) and Senator in the LII and LIII Legislatures (1982-1988). With the exception of the years 1982-1985, he was the chair of the Hacienda Committee.

⁶² Suárez Dávila was also federal deputy in the LIX Legislature (2003-2006). In this Legislature he served as secretary of the Hacienda Committee.

		1996-1997	General Director of Federal Entities (SHCP)	2003	Commissioner of Inter-institutional Relations (SHCP)
	Dionisio Meade García de León ⁶³ (1999-2000) PRI	1980	Director of the Foreign Affairs Office (SHCP)	2001-2005	Advisor, Banco de México
		1983-1988	General Director of Fiscal Promotion (SHCP)	2005-2006	Undersecretary of the Ministry of Interior (SEGOB)
		1989-1992	Director of the Department of Services, Banco Mexicano SOMEX		
LVIII 2000-2003	Oscar Levín Coppel (2000-2003) ⁶⁴ PRI	1977-1979	Chief of advisors of the secretary of Hacienda	2003-2006	President of the Commission for the Protection of Users of Financial Services (CONDUSEF, SHCP)
		1979-1982	General Director of Credit (SHCP)	2006-2008	General Director, Casa de la Moneda (Mexican Mint, SHCP)
		1988-1989	General Director of Radio, TV and Cinematography (SEGOB)		
	Jorge Chávez Presa (2003) PRI	1992-1995	General Director of Budgetary Policy (SHCP)	2007-present	Member of the Governing Board of the Institute for the Protection of Banking Savings (IPAB, SHCP)
		1996-1998	Chief of the Unit of Policy and Budgetary Control (SHCP)		

⁶³ Meade worked as secretario técnico of the Hacienda committee during the LVI Legislature (1994-1997).

⁶⁴ Levín Coppel was federal deputy in the LVI Legislature (1994-1997) and local deputy between 1997 and 2000. In the LXI Legislature (2009-2012) Levín Coppel returned to the Chamber of Deputies to become a member of the Budget and Hacienda committees.

		1998-2000	Undersecretary of the Energy Ministry		
LIX 2003-2006	Gustavo Madero Muñoz ⁶⁵ PAN	1997	Secretary of Planning and Evaluation, Government of Chihuahua		
		1997-1998	Coordinator of Planning and Evaluation, Government of Chihuahua		

Source: Hernández (1998: 439-440); <http://sil.gobernacion.gob.mx>

⁶⁵ Madero became Senator in 2006. Until 2008, he was the chair of the Hacienda Committee. Currently he is the President of the Senate.

Table 4.9: Career Paths of the Chairs of the Budget Committee in the Chamber of Deputies 1991-2006

Legislature	Chair	Previous public administration experience (most relevant positions)		Public administration positions after leaving Congress	
LV 1991-1994	María de los Ángeles Moreno Uriegas ⁶⁶ PRI	1982-1988	Undersecretary of Programming and Budget of Social and Rural Development, Ministry of Programming and Budget		
		1988-1991	Secretary of the Ministry of Fisheries		
LVI 1994-1997	Antonio Sánchez Gochicoa PRI	1985-1988	Chief of Advisors of the Undersecretary of Planning and Budgetary Control (SHCP)	1997-1998	Undersecretary of Social Development and Housing (Social Development Ministry, SEDESOL)
		1988-1994	Major Official (SHCP)	1998- 2002?	Associate General Director of BANOBRAS
LVII 1997-2000	Ricardo García Sáinz Lavista ⁶⁸ PRD	1977-1979	Secretary of the Ministry of Programming and Budget	2000-2006	Advisor to the Mexico City Mayor
		1982-1991	General Director of the Mexican Institute of Social Security (IMSS)	2008- present	Contralor General, Mexico City Government
LVIII 2000-2003	Luis Pazos De la Torre ⁶⁹ PAN			2003	Spokesman of Hacienda
				2003-2006	General Director of BANOBRAS

⁶⁶ Moreno was Senator in the LVI and LVII Legislatures (1994-2000) and local deputy (Mexico City) between 2000 and 2003. Since 2006 she has been a Senator and member of the Hacienda Committee.

⁶⁸ García Sáinz Lavista was a PRI member until 1993. He changed his affiliation to the PRD in 1997.

⁶⁹ Before 1998 Pazos had no political party affiliation. He was a university professor and author of political books.

				2006-present	President of the Commission for the Protection of Users of Financial Services (CONDUSEF, SHCP)
LIX 2003-2006	Francisco José Rojas Gutiérrez (2003-2004) PRI	1979-1982	General Coordinator of Management Control, Ministry of Programming and Budget		
		1983-1987	Secretary of the Contraloría de la Federación		
		1987-1994	General Director of PEMEX		
	Ángel Augusto Buendía Tirado (2004-2005) ⁷⁰ PRI	NA	General Project Coordinator, BANOBRAS		
		NA	Secretary of Social Development of the Government of Tabasco		
	Ángel Heladio Aguirre Rivero (2005-2006) ⁷¹ PRI	1989-1990	Secretary of the Ministry of Economic Development and Labor of the Government of Guerrero		
		1990-1991	Regional Coordinator of the National Solidarity Program (Social Development Ministry, SEDESOL)		
		1996-1999	Interim Governor of Guerrero		

Source: Laura Sour (2007: 146); Musacchio (2002); <http://sil.gobernacion.gob.mx>.

⁷⁰ Buendía was also federal deputy in the LI Legislature (1979-1982). In 2005 he was removed from his position because of diverse irregularities in the management of the Budget Committee funds (Jiménez, 2005).

⁷¹ Aguirre was also deputy in the LV Legislature (1991-1994). Since 2006 Aguirre has been a Senator and chair of the Communications and Transportation Committee.

The case of Ángel Aceves is representative of the close ties between Hacienda and the financial committees in Congress. Between 1963 and 1979 Aceves worked for Hacienda and other government agencies. From 1979 to 1999, Aceves served three times as federal deputy (1979-1982, 1991-1994, and 1997-1999) and once as senator (1982-1988). With the exception of the years 1982-1985, he was chair of the Hacienda committee either in the Chamber of Deputies or the Senate. In his years out of Congress, Aceves returned to public administration and occupied top-level positions, such as adjunct director of a development bank (NAFIN 1989-1990) and general director of federal entities in Hacienda (1996-1997). After serving in the Chamber of Deputies for two years, Aceves left his seat in 1999 and became president of a Hacienda agency that defends customers' rights against banks and other financial institutions (CONDUSEF). Although he was a *priista*, Aceves' position was ratified during the Fox administration. In 2003, the secretary of Hacienda appointed Aceves as commissioner of inter-institutional relations. During his Hacienda years (he died in 2003), the agency also granted Aceves a customs office in Mexicali, Baja California (see DOF 03/22/2007).

The political career of Luis Pazos reveals how Hacienda rewards legislators who defend its interests. Until 1998 Pazos did not have any political party affiliation. He was a university professor and author of numerous political books. In 1998, the PAN chose him to run for the Veracruz governorship. Although Pazos lost the state election, the PAN offered him a proportional representation seat in the Chamber of Deputies in the LVIII legislature (2000-2003). As deputy, Pazos was chair of the Budget committee. From that position, he strongly defended President Fox's budget bills. When the

legislative term ended, despite diverse accusations of authorizing federal funds for private organizations and his lack of experience in the public administration, Pazos was appointed Hacienda's spokesman (del Valle 2005). Some weeks later the secretary of Hacienda appointed Pazos as director of a development bank (BANOBRAS); he held that position until President Calderón chose him to head the CONDUSEF in 2006.

Finally, Jorge Chávez Presa exemplifies how top-level officials leave their posts to occupy key positions in the Chamber of Deputies' financial committees. In the nineties, Chávez Presa was a young technocrat who occupied diverse top-level positions within Hacienda such as general director of budgetary policy (1992-1995), and chief of the unit of policy and budgetary control (1996-1998). In 1998, Chávez Presa left Hacienda and was appointed undersecretary of the Energy Ministry. Two years later the PRI offered him a proportional representation seat in the Chamber of Deputies. In Congress, Chávez Presa occupied important positions in relevant committees: *secretario* and, later, chair of the Hacienda committee; and member of the Budget, Foreign Affairs and Federal District committees. In 2007, after being out of the public administration for four years, President Calderón designated Chávez Presa as member of the governing board of the Institute for the Protection of Banking Savings (IPAB).⁷²

Frequently, Hacienda officials and committee chairs belong to the same political faction; they have the same degree of education, and have had parallel careers. Even though they may be affiliated with rival political parties, bureaucrats and legislators share

⁷² According to the IPAB's law (article 75), members of the governing board are designated by the president and approved by two thirds of the members of the Senate, and in its recesses by the same fraction of the members of the Permanent Commission of the Federal Congress.

economic ideologies. These common factors produce empathy and closeness between these actors. Talking about this relationship, a former chair of the Hacienda committee stated that he could negotiate important fiscal stipulations with the agency because of his personal relationship with Hacienda's Secretary (Author interview: August 23, 2006).

Given the close relationship between Hacienda bureaucrats and high-ranking legislators in the financial committees, it is very hard for the latter to hold the former accountable. In addition to resources controlled by Hacienda, legislators' careers depend—to great extent—on the agency. Thus, if lawmakers 'cooperate' with Hacienda during their term, the likelihood that they will get a job within the government is much higher than if they tried to exert control over top-level bureaucrats.

There is additional indirect evidence that members of Congress receive benefits from Hacienda in exchange for acquiescing to bureaucratic discretion. This evidence is found in the *puntos de acuerdo* (PA). As explained earlier, these legislative instruments are non-binding resolutions that legislators approve and send to the executive agencies. The subjects of the PA are varied; legislators frequently use them to request concrete actions from agencies or to denounce specific problems. For instance, in 2003, a PRI deputy requested that the Ministry of Agriculture allocate funds to the drought in the state of Sonora. In the same year, a PRD deputy asked the Ministry of the Interior to release funds for the victims of a tornado in Baja California Sur. Another PRD deputy urged the Environmental Ministry to implement a program to reduce pollution on the coast of Veracruz. As these examples illustrate, legislators approve PA to try to satisfy constituents' demands. However, since PA are non-binding resolutions, Hacienda and

the rest of the government agencies are not forced to comply with them. Stated differently, public officials will meet legislators' demands only if they want to. Therefore, the fulfillment of lawmakers' PA depends on the willingness of bureaucrats. Since satisfying constituents and interest groups' demands is important for politicians' careers, legislators establish informal contacts with officials to try to convince them to take notice of their PA.⁷³ Given that officials are not legally obliged to satisfy lawmakers' demands, bureaucrats will give what legislators need only if the latter do not cause trouble to the former. According to information from interviews, lawmakers are aware that if they start serious investigations or exert frequent supervision of public policies, they will not receive resources for their constituents or interest groups (Author interviews: April 20, 26; May 3, 11, 15, 25; June 1st, July 12, 19; August 2, 23; September 5; November 3; December 12, 15, 2006; January 7, 2007; February 10; July 24, 2009).

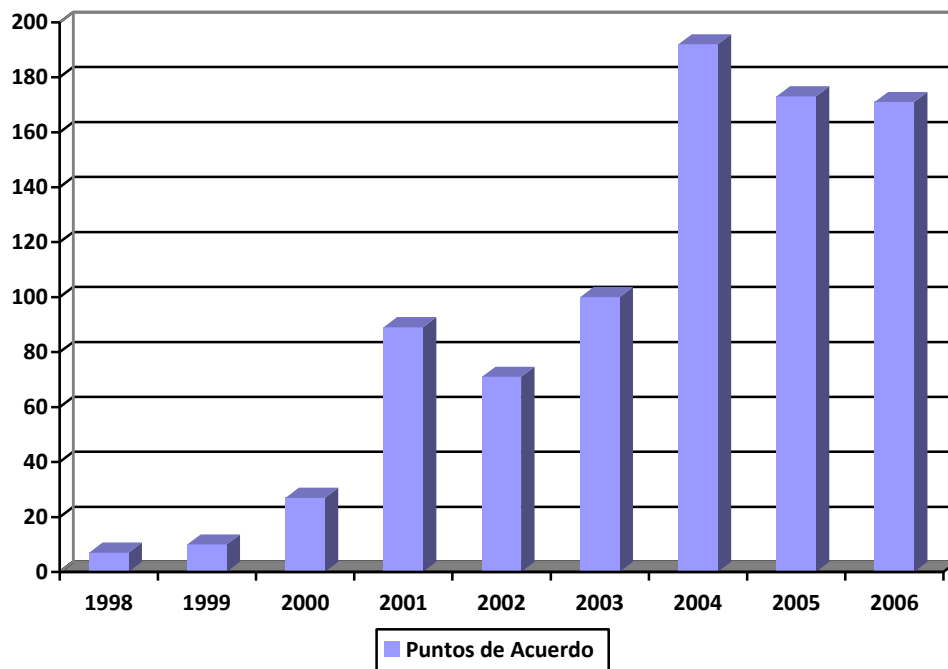
Since 1998, the number of PA has increased significantly. During the LVII (1997-2000), LVIII (2000-2003) and LIX (2003-2006) Legislatures, members of Congress proposed 762, 2435 and 5260 puntos de acuerdo respectively.⁷⁴ In the same vein, the number of PA about budgetary issues has also increased since 1998 (Figure 4.6). By using these instruments, legislators try to increase or reallocate certain budget items, as well as request additional funds for the construction of public pools, parks, or

⁷³ Politicians do not necessarily approve PA in order to ask bureaucrats for the accomplishment of a petition. That is, member of Congress also request the fulfillment of demands through personal communications or informal meetings.

⁷⁴ The number of puntos de acuerdo introduced in the Chamber of Deputies is bigger than the number of bills. In the LIX Legislature (2003-2006), for instance, while there were 2891 bills initiated, 5280 puntos de acuerdo were presented.

bridges, among other services in their states or districts. Table 4.10 shows the number of PA in the Chamber of Deputies that dealt with budgetary issues between 1998 and 2006. As the table shows, individual deputies and senators initiated a majority of the PA. The increasing number of PA suggests that at least a good part of PA were satisfied by Hacienda. Although there is no direct evidence to confirm that bureaucrats satisfy legislators' demands in exchange for legislators' lack of supervision of public programs, the repetitive use of PA suggests the existence of an implicit deal between these actors.

Figure 4.6: Budget Related Puntos de Acuerdo 1998-2006



Source: Based on Sour (2007)

Table 4.10: Budget Related Puntos de Acuerdo by Sponsor 1998-2006

Year	Individual Deputy	Deputies' Committee	Party	Coalition	Senate	Individual Senator	Senators' Committee	State Congress	Total
1998	4	2	1						7
1999	3	2						5	10
2000	12	9	4	1			1		27
2001	18	1	6	14	8	5		37	89
2002	21	3	10	9	2	8	1	13	71
2003	24	1	4	17	20	16	1	17	100
2004	70	5	6	12	34	39	7	19	192
2005	76	3	7	20	17	19	2	29	173
2006	104	1	1	5	9	39	2	10	171
Total	332	27	39	78	90	126	14	130	840

Source: Sour (2007: 130)

CONCLUSION

This investigation of the budget process in Mexico shows that, in contrast to the assumptions underlying the dominant institutionalist approach, principals in developing countries exert leverage over agents, but the latter also have the means to influence or retaliate against the former. Since democratization started, Mexican legislators have been able to constrain bureaucratic leeway at least in formal rules. The chapter shows how the rules regarding Hacienda's financial information available to legislators and the government's capacity to allocate federal funds were modified in an effort to reduce officials' discretion in the implementation of appropriations laws. The chapter also documents how Hacienda officials continued to have ample margin to implement fiscal policies by continuously transgressing budgetary legislation. The reason why legislators tolerated bureaucrats' multiple transgressions to appropriations laws' stipulations is

because there was an informal agreement in which lawmakers allowed bureaucratic discretion in exchange for handouts for their constituents and interests groups. Bureaucrats also offered lawmakers positions in government agencies in exchange for allocating or reallocating funds at their convenience.

Bureaucratic leverage over legislators is not taken into consideration in principal-agent theory. As previously mentioned, this framework assumes unidirectional authority from principal to agents. In other words, the principal controls the agent, but the agent cannot control the principal. The budget process in Mexico shows that, in developing countries, there is bidirectional authority whereby principals have formal rights to control the agents, and agents have informal leverage over principals. These informal mechanisms of influence neutralize the formal control powers that legislators have over bureaucrats. Put differently, by distributing resources for handouts, bureaucrats obtain legislators' consent to design and implement programs as they wish. The next chapter examines whether the mutual influence theory is able to account for health public policy in Mexico.

Chapter 5: Bureaucratic Leeway in the Public Health Sector

Chapter 4 discussed the lack of effective legislative control over the Hacienda bureaucracy. As the chapter documented, the arrival of democracy brought formal changes in fiscal legislation but limited effective congressional control over budgetary politics. What happened in public health policy? Did Congress restrain bureaucratic discretion in this area more than in budgetary politics? This chapter finds that democratization did not have a significant effect on the level of congressional control and monitoring over the public health bureaucracy either. During the PRI era, the health system functioned with minimal congressional supervision. Although democratization allowed Congress to enact multiple modifications to the health system, the great majority of public health policies continued to be designed and implemented without congressional consent. In the same vein, legislators, as in the non-democratic period, failed to supervise and monitor the public health bureaucracy. The reason why members of Congress do not oversee health programs and do not pressure authorities to sanction those officials that have committed illegal acts lies in the fact that legislators need favors from bureaucrats. By distributing resources for states and municipalities and granting favors to politicians' friends, relatives or constituents, bureaucrats obtain informal consent to implement health policies as they wish. Accordingly, there is an implicit agreement by which bureaucrats do special favors in exchange for bureaucratic discretion.

The chapter is organized as follows: the first section provides a brief overview of the evolution of the health sector in Mexico. The question of whether democracy allowed more participation by Congress in the public health sector is examined in section two. In addition, this part analyzes which important aspects of health policy are decided by law, and which are decided by internal rulings. Section three examines whether legislators set clearer and stricter guidelines regarding those issues that are decided by Congress. Finally, the last section of the chapter analyzes the extent to which Congress supervises the execution and control of health policy implementation, and then documents the informal system in which legislators obtain benefits in exchange for discretion in the implementation of health policies.

EVOLUTION OF MEXICO'S HEALTH SYSTEM

During the twentieth century, the Mexican health system evolved from being a welfare service to a basic right stipulated in the constitution. The evolution of the system advanced through three main reforms.¹ In 1943 the first reform, considered to be the foundational moment of the national health system, established three important health institutions: the Department of Health (Secretaría de Salud y Asistencia), the Mexican Institute for Social Security (IMSS), and the first national institute of health (Hospital Infantil de México). While the Department of Health (hereafter DH) was designed to provide medical assistance to peasants and people working in the informal sector, the

¹ The following description of the evolution of the health system is based on Frenk, Sepúlveda, Gómez Dantés, and Knaul 2003; and Frenk and Gómez Dantés 2008.

IMSS was, and still is, in charge of providing social security to salaried workers and employees who contribute to the social security system. At the time of the reform, the government expected that workers in the informal economy would enter the formal sector in due course. Therefore, it was assumed that the IMSS would eventually provide coverage to the entire population (Frenk and Gómez Dantés 2008: 24). This goal, however, could not be achieved and the DH, as well as the IMSS, subsequently expanded their health coverage to great extent. While the DH built numerous hospitals and medical clinics throughout the 1950s and 1960s, the IMSS only covered 17 percent of the Mexican population by 1964. In 1963, the federal government created another pillar of the Mexican health system, the Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado (ISSSTE), which provides social and medical assistance to government employees.

Although the establishment of the DH, the IMSS, and the ISSSTE guaranteed medical assistance and coverage to millions of Mexicans, by the 1980s this model was failing to meet health demand in the country, as increasing strain developed in an already stressed system. For example, the cost of medical services rose as demand increased; the majority of the rural population still did not have access to medical attention; new diseases appeared; and the quality of medical services in general was deficient.² Given these conditions, a second generation of reforms started in the early 1980s. In 1983, the constitution was amended to grant every Mexican the right to the protection of her health.

² In 1980 and 1983, Mexico spent 0.4 and 0.1 percent of the gross domestic product on health care, respectively. These percentages were below the public spending on health of Brazil, Chile and Costa Rica (Brachet-Márquez 2007: 294).

The old sanitary code was replaced in 1984 by a new General Health Law. Additionally, health services began to be decentralized from the federal government to the states. And in 1984 the National Health System was created. Headed by the DH, this system was charged with coordinating health policies with the IMSS, ISSSTE and other local and federal public agencies.³ Similarly, diverse national health programs were implemented such as oral rehydration and universal immunization programs. Among the results of the second-generation reforms was the reduction of health inequalities across states, the increase of life expectancy at birth, and the decrease in the mortality rate. In general, medical attention for all citizens expanded significantly following the reforms. According to Frenk and Gómez Dantés, by 1990, 90 percent of the Mexican population was officially entitled to government health assistance, either through the IMSS, ISSSTE or the DH (Frenk and Gómez Dantés 2008: 26-27).

A worldwide movement for health reform in the 1990s promoted the third generation of health reform in Mexico. The objective of this generation of reforms was to reorganize the system by functions: provision, financing, and stewardship. Additionally, the reform was designed to improve the efficiency of medical services; to offer medical attention at reasonable costs; to establish new health programs aimed at increasing the quality of health services; and to promote citizen participation in the health system (Frenk and Gómez Dantés 2008: 27). In order to accomplish these objectives, the Mexican government implemented the Coverage Extension Program, which provides

³ Article 7 of the Health Law stipulates that the Department of Health is the agency that coordinates the National Health System. The authority of the DH over the rest of the health agencies, however, has been more formal than real given that these agencies receive more public funding from the federal government and have powerful unions (Brachet-Márquez 2007: 307, 342).

twelve basic medical interventions for people living in extreme poverty. Similarly, an incentive-based welfare program was implemented and has been functioning since the Zedillo administration.⁴ This program gives subsidies to people in need in exchange for compliance with diverse education, health and nutritional policies (Frenk, Sepúlveda, Gómez Dantés and Knaul 2003: 1669-1670).

Although the right to the protection of health has been stipulated in the constitution since 1983, in practice there was a gap between the constitutional mandate and the real health coverage provided (Brachet-Márquez 2007: 338; Haber, Klein, Maurer and Middlebrook 2008: 161-162). Accordingly, in 2000, about half of the Mexican population did not have effective coverage by health insurance (Frenk, Sepúlveda, Gómez Dantés and Knaul 2003: 1670). In order to fulfill this constitutional mandate, in 2003 the General Health Law was amended to provide universal health insurance through the implementation of a system of Social Protection in Health (SPH). This system was built to reorganize and separate the functions of the health system and to provide medical insurance mainly to people in poverty, the unemployed, self-employed, or employees of the informal sector, who—in the best of cases—may have some access to medical assistance but lack formal health insurance. The operational arm of the SPH system is the Popular Health Insurance. This insurance began to operate in 2004 and, by the end of 2006, covered 15.6 million Mexicans.⁵ Overall, by 2006, 60 percent of the Mexican population had effective health coverage either by the IMSS, ISSSTE, Popular

⁴ The first name of this program was the Program for Education, Health and Nutrition (PROGRESA). The program continued in the Fox administration under the name of the Human Development Program “Oportunidades.”

⁵ The Popular Health Insurance was implemented as a pilot program in 2001. However, it was not until 2004 that this insurance formally became the operational arm of the system of Social Protection in Health.

Health Insurance, or by other federal government agencies such as Petróleos Mexicanos (PEMEX).⁶ The remaining 40 percent of the population (approximately 43 million people) was not effectively insured by any government agency (Frenk and Gómez Dantés 2008: 53-54).⁷

As regards the resources invested in health care, Mexico has significantly increased its spending as a percentage of GDP during the last few years. Accordingly, the total spending on health (public and private) was raised from 5.6 to 6.5 percent between 2000 and 2006.⁸ This figure, however, is still below the Latin American average (6.7 percent) and also below the average health care spending of the member countries of the Organization for Economic Cooperation and Development (9 percent). In terms of total spending on health, federal and state governments have managed to increase public expenditure during the last twenty years, but not at a significant rate. In 1990, public spending accounted for 40.4 percent of the total resources invested in health care. By 2006, this percentage increased to 46.8 percent. In other words, the majority of the money spent on health in 2006 (53.2 percent) went towards private medical services. This figure is almost the double of the private spending average of other OECD member states (Frenk and Gómez Dantés 2008: 59-63). For instance, due to the poor quality of government agencies' medical services, one quarter of the population that has IMSS or ISSSTE health coverage refers to pay for private physicians rather than seeking

⁶ This figure also includes those citizens that either have private medical insurance or make use of private medical services. Twenty-five percent of the population that has government medical coverage also regularly utilizes private health services (Frenk and Gómez Dantés 2008: 54).

⁷ In theory, this population receives medical services provided by the Department of Health, the Program IMSS-Oportunidades, or by states.

⁸ In 1990, this figure was 1.7 percent of the GDP (Brachet-Márquez 2007: 340).

assistance at one of the public institutions (Frenk and Gómez Dantés 2008: 54; Haber, Klein, Maurer and Middlebrook 2008: 168). In sum, while Mexico's public health system has extended its coverage to the majority of the population through diverse governmental institutions (IMSS, ISSSTE, and Popular Health Insurance), there are still millions of Mexicans without effective access to health assistance. Furthermore, the quality of services is deficient.

CONGRESSIONAL LEVERAGE ON HEALTH POLICY

Has democratization prompted more active participation by Congress in the design and implementation of health policies and programs? What important aspects of health policy does Congress decide on through the creation of laws? What relevant policies are delegated to bureaucrats? This section discusses whether democratization increased the involvement of legislators in the drafting of health policies that were decided by top-level bureaucrats through *reglamentos* and other administrative rulings during the PRI era. Additionally, the section analyzes the distribution of authority among the Department of Health, state governments, and Congress.

The legal instrument used to set health policy for an entire administration is the National Health Program (Programa Nacional de Salud). At the beginning of each administration, the Department of Health (DH) organizes several forums and round-tables with academics, non-governmental health organizations, health sector workers, state departments of health, and citizens in general, in order to formulate the National

Health Program (NHP). The DH, thus, should base the objectives of NHP on the opinions, recommendations and input collected from the forum participants. Although the involvement of societal actors in the NHP is well established, legislators' contribution is ambiguous since the Planning Law (Ley de Planeación), which regulates the national planning system of the federal government, does not clearly establish whether members of Congress should take part in the formulation of this program. Even when the opinions and recommendations of legislators are considered in the NHP, the constitution does not allow Congress to modify or reject the program.⁹

In fact, Congress had no real participation in the formulation of the NHP between 1989 and 2006. In none of the NHPs covered in this study (1989-1994, 1995-2000, and 2001-2006) are there records that show that Congress, its health committees, or individual legislators participated in the creation of these legal instruments.¹⁰ Furthermore, although the DH claimed that the NHPs were formed with societal input, health analysts affirm that top-level health officials imposed the programs without taking into consideration social demands (Leal 2002; Leal y Martínez 2002). For instance, in the case of the 2001-2006 NHP, the system of Social Protection of Health (SPH, the core component of the program) was developed based on the agenda of a Mexican think-tank (FUNSALUD) that created this system following World Bank and World Health Organization guidelines (Leal 2002: 103; 106). Given that the SPH neither originated

⁹ The Planning Law only establishes that Congress should examine the National Development Plan (not the National Health Program), which is the framework used to establish national objectives, strategies, and socio-economic priorities that guide the government throughout an administration. Congress may make observations about the National Development Plan but it cannot modify or reject it.

¹⁰ See Programa Nacional de Salud 1990-1994; Programa de Reforma del Sector Salud 1995-2000; Programa Nacional de Salud 2001-2006.

from citizens' demands nor from discussions with NGOs, academics or other societal actors, it seems that the DH's forums and round-tables were a mere façade to give the impression that the federal government creates its main health care programs based on citizen petitions and needs. For this reason, analysts have stated that the Fox administration did not bring real change in the way that the federal government formulates health policies (Leal 2002: 109). Currently, however, there seems to be more participation of Congress, at least in formal terms, given that the 2007-2012 NHP stated that, in addition to societal actors and organizations, deputies and senators from the health committees contributed in the crafting of this program.

As regards the legal framework of the health system, the main legislation on this subject is the General Health Law (hereafter GHL). This law regulates the organization and administration of the health system and sets the guidelines that public and private institutions should follow in the implementation of health services. In particular, the GHL regulates the medical services that the DH and state governments—through the Popular Health Insurance—provide to the population in poverty, the self-employed, and the unemployed. In other words, the GHL does not regulate the medical attention provided to the population working in the formal sector and federal government agencies.¹¹ Article 4 of the GHL designates the president, the General Health Council, the Department of Health, and state governments as public health authorities. Therefore, the GHL does not recognize Congress as a health authority despite the fact that many policies

¹¹ The IMSS is in charge of providing health insurance to the employees working in the formal sector and the ISSSTE provides health attention to the government's employees. Both institutions are regulated by their own laws. This chapter examines the DH's public policies oriented to people in poverty, the unemployed, the self-employed and those working in the informal sector, as well as the legislative supervision of these programs.

in this area have to be approved by the Legislature. This exclusion is striking since legislators can initiate, modify and reject bills that have an effect on the entire national health system. The GHL (article 7) also establishes that the DH is in charge of coordinating the national health system¹² and is responsible for the administration of national health policy. Additionally, the GHL delimits what attributions the DH has at the federal level and what health areas and subjects are delegated to states.¹³

Despite the decentralization of the health system, the GHL requires that the DH coordinate with state governments to provide medical services and carry out health programs. The GHL (articles 17-22) stipulates that, in order to carry out such services and policies, the DH should establish coordination agreements (*acuerdos de coordinación*) with states. In this vein, each state signs a coordination agreement with the federal government to address the particular health needs of the state population. These legal instruments specify in detail the resources that each part (states and federal government) should provide as well as the rights, responsibilities and obligations that each one has in the implementation of health services. Given that the GHL grants authority to states to implement policies in many health areas, the DH cannot carry out, by itself, many types of health programs across the country. Therefore, although the DH is the highest authority within the national health system, its influence is limited in the implementation of many health policies at the state level.

¹² The national health system is formed by federal and state government agencies as well as by private institutions that offer medical services (GHL, article 5).

¹³ As a consequence of the decentralization process, Mexican states had to create their own departments of health to administer hospitals, medical clinics and programs transferred from the federal government to states.

Despite the importance of the coordination agreements, and the fact that the majority of the health resources allocated to states come from federal taxes and are approved by Congress, legislators do not have any leverage over these legal instruments since they are negotiated and signed only between state governments and the DH. That is, at least in formal terms, members of Congress cannot get involved in the negotiation, monitoring, or review of the agreements. The lack of legislative oversight of the coordination agreements gives ample discretion to the federal and local governments in the health area (Author interviews: May 18; June 26, 2009). The only formal mechanism available to legislators to control the health resources allocated to the states is the federal budget. Thus, members of Congress' budget committee can determine the overall amount of resources allocated to health that will be transferred from the federal government to the states.¹⁴ However, once legislators approve the budget there is no legislative mechanism to monitor the states' usage of the resources (Author's interview: June 26, 2009).¹⁵

Among the health areas that the DH is entirely responsible for are: the programs related to the attention of AIDS and drug addiction; the sanitary control of products and services; and the control and regulation of the exportation and importation of medicines, medical equipment, and products. Additionally, the GHL grants the DH the exclusive authority to establish *normas oficiales mexicanas* (NOM), which are specific policy instructions that every health agency must follow in the implementation of a medical

¹⁴ The federal resources allocated to health care are transferred to states through a federal fund (Fondo de aportaciones para los servicios de salud para la comunidad). The Auditoría Superior de la Federación, which is the congressional auditing office, cannot audit these resources since they are spent by regional governments.

¹⁵ In contrast to the federal Congress, state legislatures have the authority to audit and supervise the resources allocated to health care in their state.

service. The DH is also responsible for the assessment and oversight of federal health programs, as well as the supervision of compliance with health laws.¹⁶ Given that the DH has the exclusive power to create the NOM, legislators are not able to propose, modify or rescind these regulations. Consequently, members of Congress do not have control over the specific stipulations of health policies.

Although the GHL stipulates that the DH has to design and implement policies and regulations concerning many health areas, the law is not precise in many sections since it does not set the limits or parameters that officials have to follow in the design of such programs and directives. Consequently, despite multiple modifications to the GHL, many health issues continue to be decided by bureaucrats through internal rulings. In contrast, there are other health areas where the GHL defines in detail procedures and instructions that bureaucrats have to follow in the implementation of programs. For example, there is a complete chapter within the GHL that clearly defines that the DH has exclusive authority to establish “extraordinary actions” to control and eradicate epidemics and contagious diseases. In particular, article 183 gives exclusive power to the president to determine—through an executive decree—which regions of the country are subject to extraordinary actions. In this case, the law does not require that Congress authorize these types of actions. Furthermore, the GHL authorizes the DH and state health departments to establish preventive sanitary measures such as the establishment of quarantine, isolation of a population, and the suspension of work activities. Despite the severity of these measures, they likewise do not have to be approved by Congress (articles 402-415).

¹⁶ See article 13 of the GHL for a complete list of health subjects regulated by the DH.

The General Health Council (GHC) is the second sanitary authority in the country, just below the president, on whom its power depends.¹⁷ The GHC has the authority to implement policies against tobacco addiction and alcoholism, as well as policies that combat diseases caused by environmental pollution. In contrast to the attributions of the DH, the GHL (article 17) stipulates that these GHC policies have to be validated by Congress. Another important decentralized body of the DH is the Federal Commission for the Protection against Sanitary Risk (COFEPRIS). The GHL (article 17 bis) grants the COFEPRIS the authority to design and carry out programs aimed at protecting the population against sanitary risks. The COFEPRIS also has authority to impose sanctions on those private or public companies and medical laboratories that do not comply with sanitary regulations. Although the GHL specifies in detail the COFEPRIS attributions, it does not establish any institutional mechanism that allows Congress or its health committees to systematically oversee the functioning of this important agency. This omission is remarkable since the COFEPRIS carries out crucial functions and also because the agency was created in 2001, after the PAN had already won the presidency.

As it can be observed, the GHL delegates ample leeway to the DH to design and implement many health policies. Moreover, the law allows states to carry out the majority of health programs by themselves or in coordination with the federal agency. Despite the fact that the DH has limited authority in states, the agency is entitled to elaborate health regulations that specify the precise procedures that all public and private agencies should

¹⁷ The GHC is formed by 19 members presided over by the secretary of the DH. The president appoints its members based on their experience in the health sector (Mexican Constitution article 73; GHL article 15).

adhere to when carrying out a health service. For its part, Congress also has authority to design and implement health policies. But in many aspects the GHL is ambiguous and leaves ample room for DH officials to carry out programs as they wish. In addition, and with few exceptions, the health legislation does not stipulate that Congress has to validate either the DH policies or the emergency actions taken by the president. Consequently, the GHL generally does not establish Congress' participation, consultation, control, oversight or supervision in the implementation of most DH health programs.

Table 5.1 summarizes the health issues that are decided by the DH and state governments, as well as those subjects where Congress is either involved or has participation. As it can be observed, the only area in which all three institutions participate is in the creation of the National Development Plan. However, neither states nor Congress have the power to modify the plan once it is enacted by the president. The DH is the institution with the central authority (to coordinate, make policy, or impose sanctions) in almost all health issues. In contrast, Congress is the weakest institution in terms of its authority in health related issues. With the exception of the approval of the health budget, Congress has limited or no power to oversee or sanction health agencies, or to design specific health programs. Finally, state governments have a level of authority that lies between that of the DH and Congress in health matters. State governments have the authority to design and carry out programs in important health areas by themselves or in coordination with the DH. Additionally, regional departments of health can use federal resources with ample discretion without being accountable to the federal Congress or the DH, although the funds originated from federal taxes.

In sum, democratization has not significantly increased the participation of Congress in the design and implementation of health policy. Although modifications to the GHL have allowed for the involvement of legislators in many health issues, there are many areas that are decided by officials through reglamentos and other internal rulings. Furthermore, democracy did not further the establishment of oversight mechanisms to hold health bureaucrats accountable. In the next section I examine the effects of democracy on the GHL. In particular, I assess what kinds of amendments have been enacted since the PAN won the presidency in the 2000 election.

Table 5.1: Distribution of Authority among the Department of Health, State Governments and Congress

	Department of Health	State Governments	Congress	Did democracy produce more participation of Congress?
Participation in the making of the National Development Plan	Yes	Yes	Yes	No
Participation in the making of National Health Program	Yes	Yes	No	No
Participation in the signing of the Coordination Agreements	Yes	Yes	No	No
Participation in the creation of the Normas Oficiales Mexicanas (NOM)	Yes	No	No	No
Participation in the General Health Council	Yes	No	No	No
Authority to create the basic list of medicines and medical services	Yes/Limited	No	Limited	Yes/Limited
Provision of policy instructions for the implementation of diverse health programs	Yes	Yes	Limited	Yes/Limited
Authority to allocate federal resources to the health care system	No	No	Yes	Yes
Authority to oversee the execution/spending of federal resources allocated to national health care system	Yes	No	Yes	Yes
Authority to allocate federal resources to state governments	No	No	Yes	Yes
Supervision of federal health resources used by state governments	No	Yes	No	No
Authority to carry out extraordinary actions in case of outbreak or sanitary emergency	Yes	No	No	No
Authority to establish preventive sanitary measures (quarantine,	Yes	Yes	No	No

isolation, etc.)

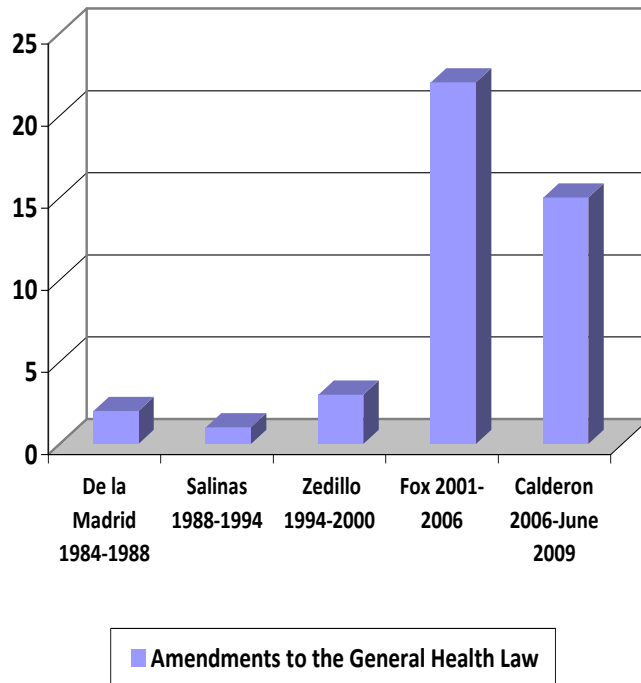
Supervision of compliance with health law and diverse sanitary regulations	Yes	Yes	No ¹⁸	No
Imposition of penalties and sanctions	Yes	Yes	No	No

THE EFFECTS OF DEMOCRACY ON THE GENERAL HEALTH LAW

The GHL, enacted in 1984, is divided into sections and then subdivided into chapters. Each chapter contains a certain number of articles. Sections regulate diverse subjects regarding the health care system, while chapters—through articles—regulate specific issues. Since its enactment until June 2009, the GHL has been modified forty-three times. Eighty-six percent of the General Health Law amendments were passed during the democratic era. That is, thirty-seven modifications to the health legislation were enacted between the first year of Vicente Fox's administration and June 2009 (see figure 5.1 below). And in just the first thirty months of the Calderón administration, fifteen changes were made to the GHL. By contrast, under the PRI regime, the GHL was amended only six times in sixteen years (1984-2000).

¹⁸ The congressional authority to supervise health policies is not stipulated in the General Health Law. However, in principle, legislators have constitutional authority to oversee compliance with any federal law.

Figure 5.1: Amendments to the General Health Law by Administration



The high number of modifications in recent years suggests that democracy has allowed for greater congressional involvement in the overhaul of the health care system. Such transformation includes the establishment of diverse checks and controls in the implementation of health policies. A way to analyze whether democracy has fostered tighter constraints on bureaucratic discretion in the health system is by counting the articles added to the law. In every amendment, Congress has either approved the

modification of the content of original articles or has included new ones. What does the addition of new articles signify about the effect of democratization on the GHL? In principle, new articles can establish limits, constraints, checks, procedures, stipulations, and datelines, among other rules, that bureaucrats should follow in the implementation of health programs. Following Huber and Shipan's (2002) argument, the more articles there are in the law, the less room officials have to manipulate the law to suit their interests since each additional article establishes constraints in the implementation of policies. Between 1984 and June 2009, the number of articles in the GHL increased by 23 percent. That is, the law went from having 472 articles in 1984, to 580 articles in June 2009.¹⁹ The great majority of the new articles (81.5 percent) were added in the democratic era.

But this is a purely formalistic assessment. In fact, new articles could give bureaucrats more responsibilities that they could discharge at their discretion. Therefore, a better way to assess whether democracy has prompted the enactment of stricter legislation is to examine the content of the health amendments. Although there were only six modifications to the General Health Law during the PRI era, four of these amendments brought substantial changes to the health care system (see amendments to the GHL in the *Diario Oficial de la Federación*: 05/27/1987; 06/14/1991; 05/07/1997; 05/26/2000). For instance, in June 1991, Congress passed a comprehensive bill that modified eighty-one articles and added twelve more to the GHL. While some of these changes established constraints on health officials, others served to regulate diverse health subjects that were not previously included in the legislation. It seems that the

¹⁹ This figure does not include subsections or paragraphs added to original articles of the GHL. As of June 2009, the GHL has 18 sections, 74 chapters, and 580 articles.

strategy of PRI presidents was to change key aspects of the health care system by bundling multiple changes to diverse health issues in one comprehensive reform, instead of introducing to Congress many reforms with few changes throughout their administrations. Given that PRI presidents had absolute majorities in Congress, they did not have any problem passing their comprehensive health reforms. Since 1997, however, presidents have not had the majorities necessary to approve their bills. This political context has forced presidents to make gradual changes to the health care system. What kinds of modifications have been enacted during the democratic period? Has democracy forced Congress to pass clearer and stricter guidelines? Have legislators approved low-discretion legislation?

As mentioned above, the number of amendments to the GHL during the democratic era is consistent with Huber and Shipan's argument (2002) that democratic regimes with divided governments and a reasonable degree of legislative professionalization tend to enact more regulations in the implementation of public policies.²⁰ In principle, the amendments to the GHL suggest that the regime change has allowed legislators to enact more and stricter controls over public health officials. Nonetheless, an examination of the amendments' content shows that the reforms were not necessarily aimed at limiting health officials' discretion or imposing controls or procedures for the implementation of programs. As it can be seen in Table 5.2, 41 percent of the reforms to the GHL enacted in the democratic era did not establish

²⁰ It is noteworthy that during the first divided government, when the PRI lost the majority in the Chamber of Deputies (1997-2000), the GHL was only amended twice. This low number of reforms to the health care system was due in part to continued PRI control of the Senate.

bureaucratic controls, policy instructions, or limits or sanctions on public officials. The majority of these amendments regulate health activities carried out by individuals, private companies or non-governmental institutions that were previously not considered in the GHL. Examples of these activities include the transplantation of organs, donation of food, and the sale and advertising of cigarettes and medicines. Thus, these reforms gave bureaucrats more responsibilities and powers and, subsequently, more capacity to use their discretion in the implementation of the law.

Another 32 percent of the reforms either set controls or gave instructions concerning health programs, but these limits are vague and, consequently, leave ample room for bureaucratic discretion. That is, although these amendments try to reduce bureaucratic leeway, they do not clearly set limits with regards to what the DH can or cannot do. For instance, in 2002 article 115 subsection II was amended to establish that:

The Department of Health is in charge of regulating educational programs and activities on the subjects of nutrition, prevention, treatment and control of malnutrition and obesity. These programs and activities should be aimed at developing adequate nutritional habits preferably within the most vulnerable social groups.

Although this subsection instructs the DH to implement these programs, it does not define in any precise way the objectives, scope, parameters, and funding of the programs. Similarly, the article does not state what is considered as the “most vulnerable

social groups”. The amendment also does not set policy procedures or instructions that health officials have to follow in the implementation of such programs. The lack of clear limits and detailed policy instructions is found in diverse health areas such as nutrition, prevention and control of accidents, HIV and the regulation of severe actions to stop the spreading of contagious diseases (see table 5.2).

Finally, only 27 percent of the reforms enacted since the change of regime clearly define and impose limits, controls, instructions and procedures for certain aspects of the health care system. The case of the waiver of medical fees for minors is an illustrative example of this type of reform. In November 2004, Congress added a paragraph to article 36 that stipulates the following:

Any minor, from birth until five years old, whose family is not affiliated with any health care institution, is exempted of fees for any kind of medical attention and medicines. In order to comply with this stipulation, it is an indispensable requirement that the level of income of the minor’s family is within the lowest three deciles established by the Department of Health.

In this example, legislators clearly and unambiguously established the policy procedures public health officials have to follow when providing medical attention to poor minors. In the same vein, this paragraph precisely defines the age range and the requirement that has to be fulfilled in order to be exempted from charge. Similar limits, procedures, and instructions are found in other reforms such as the articles regulating the

popular health insurance, medical and nursery schools, medical laboratories, and those related to sanitary control, among others. In sum, only ten out of thirty-seven reforms to the GHL enacted in the democratic era effectively seek to constrain, through legislation, bureaucrats' discretion to implement health policies. The next section assesses whether these low discretion reforms effectively constrain health officials in practice. Additionally, this part examines to what extent Congress supervises the execution of health programs and controls the implementation of those programs that the low-discretion reforms regulate.

Table 5.2: General Health Law Amendments 2001-2009

Date of publication in the Diario Oficial de la Federación	Addition or amendment of Articles	Subject	Type of amendment: Does the addition or amendment impose policy instructions, limits, controls or sanctions to officials?
01/05/2001	199 BIS and 464 BIS	Donation and distribution of food	No
06/04/2002	115 subsection VII	Nutrition	Yes, but not clearly defined
05/15/2003	3 subsection III BIS; 13, Apartado A, Subsection VII BIS; Apartado B, subsection I; Section three, articles 77 BIS1 to 77 BIS 41; article 17 subsection IX; article 28 and article 25	Creation, organization and administration of the System of Social Protection in Health and the Popular Health Insurance	Yes
06/13/2003	260	Sale of medicines in drugstores	No
06/19/2003	114; 115; 210, and 212	Nutrition programs	Yes, but not clearly defined
06/25/2003	258	Medicines	No
06/30/2003	17; 17 BIS 1; 17 BIS 2; 313 subsection 1; and 340	Sanitary control and creation of the COFEPRIS	Yes
01/19/2004	276; 421; 277; 277 BIS; 308 BIS; 309 BIS	Advertising and sale of cigarettes	No
06/02/2004	115 subsection II	Nutrition, obesity and malnutrition programs	Yes, but not clearly defined

11/05/2004	329; 333 subsection VI; 461; 462; 462 BIS	Transplant and donation of organs	No
01/18/2005	36	Waiver of fees for medical attention to minors	Yes
02/24/2005	376	Regulation of medicines, drugs and medical equipment	No
02/24/2005	13 Apartado A, subsection II, Apartado B subsection I; 61 subsection II; 112 subsection III; 3; 61	Creation of public programs in diverse health subjects	Yes, but not clearly defined
06/07/2005	314 subsection II; 360 BIS-6	Definition and regulation of corpses	Yes, but not clearly defined
06/28/2005	414 BIS; 420; 421	Regulation of dietary supplements and beauty products	No
12/26/2005	159 Subsection V	Establishment of nutritional habits	Yes, but not clearly defined
01/12/2006	81	Regulation of medical and nursing schools	Yes
02/14/2006	195;201;210;258; 264; 286 BIS; 370	Regulation of medicines and medical laboratories	Yes
04/24/2006	268 BIS; 268 BIS-1; 419	Regulation of tattoos	No
05/25/2006	464; 208; 464 Ter.	Regulation and sanctioning of medical products adulterated or forged	No

06/06/2006	277	Sale of cigarettes	No
09/19/2006	10; 11 subsection I; 27 subsection X; 54; 106; 393; 403; 3 subsection IV BIS; 6 subsections IV BIS and VI BIS; 93; 113	Inclusion of the indigenous population in the health care system	Yes, but not clearly defined
01/18/2007	419; 420; 421; 422; 422 BIS	Administrative sanctions on health care providers and medical laboratories, among others	Yes
05/09/2007	164	Research, control and prevention of accidents	Yes, but not clearly defined
05/09/2007	79	Regulation of diverse professional activities related to health	No
06/19/2007	271	Regulation of plastic surgeries and dietary medicines	No
12/18/2007	198 subsection VI	Sanitary control of medical laboratories	No
05/30/2008	Congress repealed the Health law articles related to the production and sale of tobacco and enacted the General Law for the Control of Tobacco	Control of Tobacco	Yes
07/14/2008	3 subsection XXVIII; 13 Apartado B subsection I; 313 subsection II; 350 BIS 3	Regulation of diverse health aspects (human organs and corpses)	Yes, but not clearly defined
07/14/2008	100 subsection V; 461; 317; 317	Human research	No

	BIS		
12/15/2008	13 Apartado A subsection II, XVII; 157 BIS	Programs for the prevention and control of HIV	Yes, but not clearly defined
01/05/2009	184	Extraordinary actions	Yes, but not clearly defined
01/05/2009	13 Apartado B subsection I and XXX; 27 subsection III; 59; 112 subsection III; 421 BIS; 33	Rehabilitation, curative and palliative treatments	Yes
04/17/2009	51; 51 BIS-1; 51 BIS-2; 51 BIS-3	Patients' rights	Yes
05/31/2009	64 subsection IV	Midwives' training	Yes, but not clearly defined
06/11/2009	222 BIS	Biotechnological medicines	No
06/11/2009	17 BIS subsection VIII; 313; 314 subsections VI; XIII, XIV; 316; 329; 336; 338 subsection IV and V; 339; 343, 344, 345; 314 subsections XV; XVI, XVII; 322; 337; 341 BIS	Donation of organs	Yes

CONGRESSIONAL OVERSIGHT OF HEALTH POLICIES

Is there congressional surveillance of health policies? To what extent do deputies and senators oversee health programs? As mentioned in previous chapters, Congress can supervise the work of the bureaucracy either through its committees, or through the Auditoría Superior de la Federación (ASF), which is the Chamber of Deputies' technical body that audits federal programs and policies. In general, secretaries of the various departments appear before committees either to discuss the *Informe de Gobierno*,²¹ when legislators ask them to account for the development of a certain policy, or to explain a wrongdoing within a program. According to nearly 100 percent of the interviewees, *comparecencias* (congressional hearings with public officials) are not a very effective oversight mechanism for bureaucratic accountability. With frequency, legislators ask officials to appear before Congress as a response to political scandals exposed by the media. During these congressional hearings, opposition legislators often try to embarrass officials by making sarcastic comments about the agency's performance. Similarly, legislators utilize *comparecencias* to make political statements in order to call the attention of the press. In contrast, legislators from the president's party use the hearings as a forum to either praise agencies' work or reply to opposition attacks on public policies. For their part, public officials use technical jargon and detailed information to counterbalance opposition parties' criticisms. In fact, information from interviews reveals that one or two days before the congressional hearing takes place, top-level officials give

²¹ Article 69 of the constitution stipulates that at the beginning of the first legislative session the president should submit to Congress an annual written report of the state of the public administration. This report is called the *Informe de Gobierno*.

legislators from the president's party a list of questions that they can ask in the comparecencia. In this way, lawmakers from the president's party can control the impression that bureaucrats make on the committee members (Author interviews: May 8, 16; July 19; August 2, 23; September 5, 2006; January 7, 2007). In sum, comparecencias are superficial congressional acts mainly because legislators view them as an opportunity to reprimand public officials' work, and not as a means to correct mistakes of policies and programs. Moreover, once the comparecencias are over, legislators rarely follow up on the demands and recommendations made to bureaucrats or investigate whether bureaucrats have corrected the wrongdoings.

The statements from interviewees are consistent with the comparecencia minutes. These records show the scarce interest that legislators pay to the appearances of top-level officials before legislative committees. By law, all the secretaries of state have to appear before the Senate and the Chamber of Deputies' committees once a year to assess the annual functioning of agency programs. The comparecencias involving the DH secretary during the Fox administration exemplify the scarce attention that legislators pay to these hearings. On average, only eighteen deputies from the health committee attended these congressional hearings.²² This was a low number since, by law, a minimum of sixteen deputies out of the health committee's thirty members must be present to start a meeting. Moreover, in the six comparecencias to examine the DH's annual work, some deputies left the meetings before they ended. In fact, in 2006 two deputies (who were supposed to question the secretary) abandoned the meeting just a few minutes after it started.

²² Comparecencias regarding the Glosa del Informe de Gobierno are available at: <http://cronica.diputados.gob.mx/Comparecencias/>.

The analysis of the comparecencias' minutes also reveals that opposition legislators frequently made political, instead of technical, statements and comments. In the 2004 comparecencia, for instance, a PRD deputy said (Diario de Debates 12/22/2004):

We want a change, a true reform of the state. A democratic reform with popular content. We are here for the assessment of President Fox's fourth annual report. But the social policy of this administration is completely defined. It is defined by an increase of inequality and inequity.

Furthermore, minutes from the comparecencias show that deputies from the president's party usually praise or defend the DH secretary and its programs. In the 2003 comparecencia, for instance, a PAN deputy said to the DH secretary: "We congratulate you for the program on medical interns and nursing... you can have our complete support for the accomplishment of the National Health Program" (Diario de Debates 10/22/2003). In 2004, another PAN deputy affirmed, "There are many [DH achievements] but there are some [opposition legislators] that do not want to acknowledge them" (Diario de Debates 10/22/2004). Similarly, during the 2006 comparecencia, a PAN deputy replied to the oppositions' criticisms that the DH did not transfer enough resources to state health departments by arguing that "It is very easy to come here and criticize a project... The federal government does transfer enough funds to states governments, but they do not efficiently use these resources". The same deputy ended his participation by saying, "We

have to acknowledge the work of the secretary. You have done highly regarded work” (Diario de Debates 10/25/2006).

Finally, comparecencia minutes uncovered that many members of the health committee were not well informed about the DH’s public policies and programs. With frequency, deputies voiced general or superficial questions and comments to the DH secretary. Accordingly, in each comparecencia between 2001 and 2006, DH Secretary Frenk had to provide general information about certain policies or correct certain data that opposition deputies used to attack him. During the 2002 comparecencia, for instance, rather than asking about the implementation details of the DH’s programs against cervical cancer, a deputy asked what policies for this disease were being carried out. The deputy, thus, did not know basic information such as the number of cases treated or the names of the DH programs to prevent and control this disease. In the same congressional hearing, Frenk had to clarify to another deputy how the health budget was distributed among the DH, the National Institutes, and the states departments of health (Diario de Debates 10/4/2002). That Frenk had to explain the distribution of the health budget was surprising given that this information was approved by deputies in the appropriations law. As these examples illustrate, comparecencias are not effective oversight mechanisms by which legislators examine, discuss or correct the DH policies.

By contrast, ASF audits and investigations are effective instruments for overseeing the implementation of programs. Such audits are conducted by professional accountants who have the time and resources to analyze policy implementation and results in depth. Every year, the ASF reviews and analyzes the Public Account (or Cuenta

Pública, the governmental record of all the financial operations undertaken during the fiscal year) and prepares a report that is delivered to the Chamber of Deputies for examination.

In the case of the health sector, the ASF has carried out just a few audits of health programs and institutions during the democratic era (see figure 5.2). On average, the Department of Health was only audited nine times per year between 2001 and 2007. This number of audits is very low, particularly when it is compared to the number of audits conducted on other departments. For instance, the ASF audited the Communications and Transportation and Hacienda departments, on average, forty-six and sixty-seven times per year, respectively, during the same period. Similarly, the audits conducted in the health sector as a percentage of the total number of audits among all agencies was also very low. While in the case of the Communications and Transportation and the Hacienda departments the percentage reached 12 and 17 percent, respectively, the percentage in the Health Department did not even reach 5 percent of the total audits between 2001 and 2007 (see figure 5.3).

Figure 5.2: Number of ASF audits of the Health, Communications and Transportation, and Hacienda departments

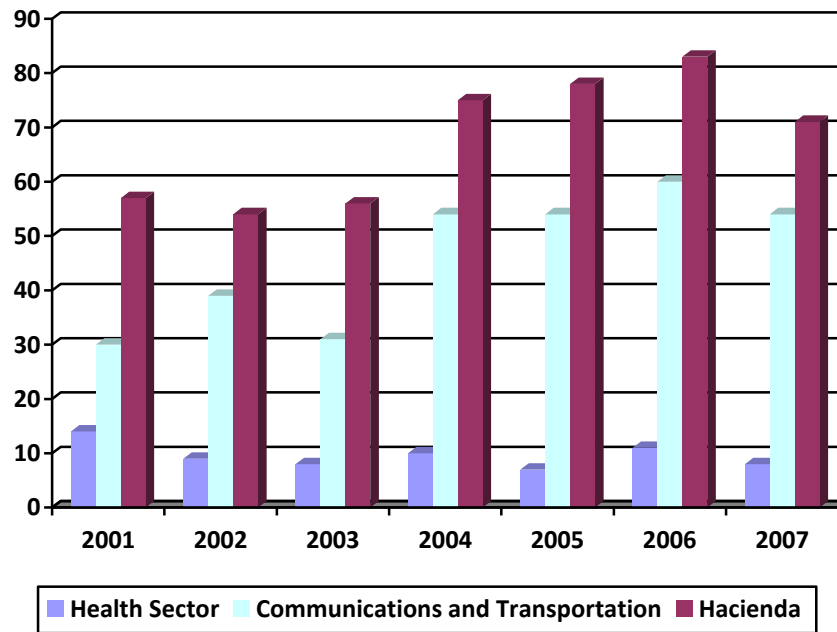
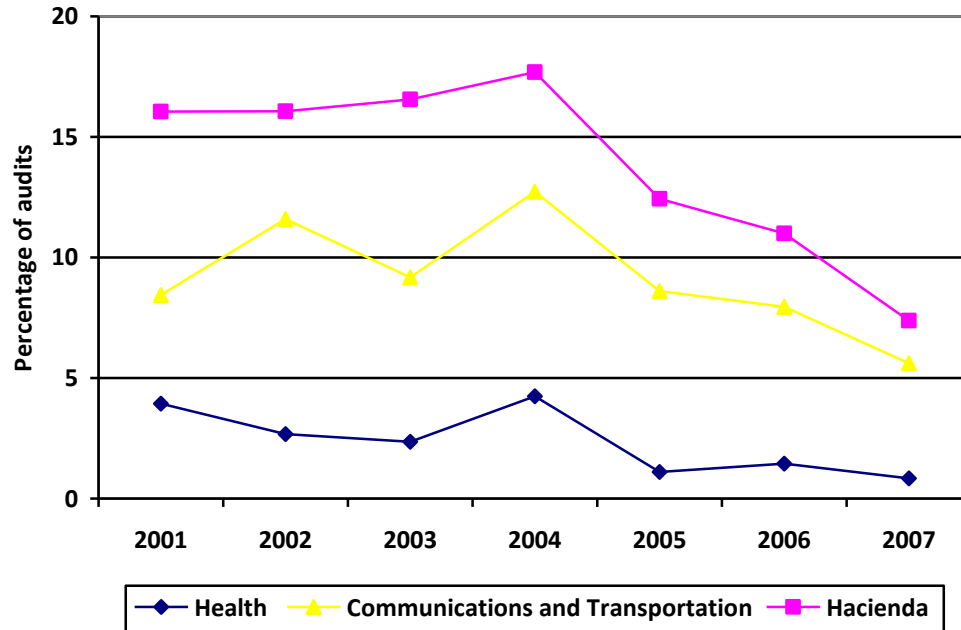


Figure 5.3: ASF audits of the Health, Communications and Transportation, and Hacienda sectors as percentage of total audits



What health areas did the ASF oversee through its audits? The ASF carried out sixty-seven regular audits on the health sector between 2001 and 2007. The health institutions and areas audited are shown in Table 5.3. As can be observed, the majority of the ASF audits were conducted on general hospitals and national health institutes but not on the DH, which is the main federal agency that coordinates the national health system and that is the most important institution within the health sector. Indeed, only sixteen out of sixty-seven audits (or 23.88 percent) were carried out on the DH. Specifically, the ASF conducted just seven audits (10.44 percent of the total health sector audits) in those areas that have only recently—since 2001—been strictly regulated by the

GHL. Stated differently, since the start of the democratic period, the ASF only performed seven audits to check whether the DH bureaucrats complied with the new constraints and controls imposed by Congress.²³ The health areas, programs and institutions under strict regulation since 2001 that were audited by the ASF were: the National Commission for the Social Protection in Health and Popular Health Insurance (four audits); the National Center for the Control and Prevention of HIV, CENSIDA (two audits), and the importation of toxic substances (one audit). Thus, the ASF did not verify whether the DH complied with the GHL in important areas such as the donation and transplantation of organs, rehabilitation treatments, control of tobacco and obesity, nutrition programs, donation of food, sanitary control of medical laboratories, and sanctions to health providers, among others.

²³ The rest of the audits conducted on the DH and on general hospitals and national health institutes were financial examinations to check whether bureaucrats utilized health resources according to their own budgets (see health sector audits in ASF's reports 2001-2007).

Table 5.3: ASF audits of the Health Sector 2001-2007

Year of audit	Health institutions and areas audited	Number of audits
2001	Department of Health <ul style="list-style-type: none"> • Health Services Fund • Transfers to civil organizations GEA General Hospital Children's General Hospital National Institute of Cardiology National Institute of Perinatology National Institute of Public Health Biological Laboratory (BIRMEX) National System for Family Development (DIF)	14
2002	National Rehabilitation Center General Hospital of Mexico Children's General Hospital National Institute of Cardiology National Institute of Nutrition	9
2003	Department of Health <ul style="list-style-type: none"> • Oportunidades (nutritional products) • Health services subsidies (Popular Health Insurance, Oportunidades, and IMSS-Oportunidades) Public welfare administration General Hospital of Mexico GEA General Hospital National Institute of Pediatrics Biological Laboratory (BIRMEX) National System for Family Development (DIF)	8
2004	Department of Health <ul style="list-style-type: none"> • Acquisition, distribution and prescription of medicines • Personal services Public welfare administration National Center for the Prevention and Control of HIV (CENSIDA) National Commission for Social Protection in Health	10

	General Hospital of Mexico National Institute of Pediatrics National System for Family Development (DIF)	
2005	Department of Health <ul style="list-style-type: none"> • Popular Health Insurance • Program of quality, equality and development in health • Public works (National Institute of Psychiatry and National Institute of Respiratory Diseases) National Center for the Prevention and Control of HIV (CENSIDA) National Center on Epidemiological Surveillance and Disease Control National Institute of Cardiology	7
2006	Department of Health <ul style="list-style-type: none"> • Performance audit on Tlalnepantla municipality (Morelos) • Import of toxic substances • General Services National Center for Child and Adolescent Health National Commission for Social Protection in Health National Institute of Nutrition National Institute of Genomic Medicine National Institute of Neurology Biological Laboratory National System for Family Development (DIF)	11
2007	Department of Health <ul style="list-style-type: none"> • Health services (first level of attention) • Salaries • Acquisition of medical supplies and equipment General Hospital of Mexico National Institute of Cancerology National Institute of Respiratory Diseases National Institute of Genomic Medicine National Institute of Rehabilitation	8

What were the findings of the ASF's audits? In the case of the National Commission for Social Protection in Health (hereafter NCSPH), which is the institution that operates the Popular Health Insurance (hereafter PHI), the ASF carried out 4 audits. As is well known, the PHI was the main health program established during the Fox Administration, and it continues to operate in the Calderón administration. As mentioned in the first part of the chapter, the PHI was established in 2003 to provide health coverage to the population in poverty, the unemployed, self-employed, and those working in the informal sector who lacked effective access to any medical assistance. The GHL contains forty-one articles that describe in detail the procedures, guidelines and instructions that bureaucrats have to follow when implementing the PHI. Despite the controls and restrictions established in the GHL, the ASF has found diverse irregularities in all the audits that have been carried out on the agency. In 2003, for example, the NCSPH transgressed the Public Administration Law and the reglamento of the Department of Health when it allocated subsidies to the PHI without following any administrative procedure manual. The ASF stated that the absence of an administrative manual hindered the appropriate control of the subsidies allocated to the PHI and other health programs. Moreover, the NCSPH, which is an agency of the DH, failed to justify transfers of resources totaling 144.1 million dollars (or 69.9 percent of the total resources allocated to the PHI) from one health item to another. These financial maneuverings were neither approved by Congress nor outlined in the appropriations law. Similarly, the NCSPH transgressed the reglamento of the Budget Law since it did not comply with the spending calendars established by Hacienda (ASF 2003 IRRFSCP Tomo VIII: 22-35).

In 2004, the ASF uncovered that the NCSPH violated various accounting guidelines by transferring resources to other DH units that were not related to the management and operation of the PHI (ASF 2004 IRRFSCP Tomo VII Vol. 1: 298). In 2005, the NCSPH failed to provide documentation verifying that 24.5 percent (210.2 million dollars) of the financial resources were, in fact, spent in the operation of the PHI. In the same year, the agency failed to comply with article 77 BIS of the GHL, which requires that the NCSPH create a special fund for health services. Furthermore, the ASF found that the NCSPH did not have indicators to assess whether the implementation of the PHI reduced insured people's expenditures on catastrophic diseases by 75 percent, which was one of the main objectives of the PHI. Finally, based on NCSPH information, the ASF stated that the agency would not fulfill the GHL objective to enroll 100 percent of eligible families by 2010 because of mistakes in the calculation of insurance coverage (ASF 2005 IRRFSCP Tomo VII Vol.1: 17-196; Laurell 2007: 531-533). Irregularities in PHI operations continued during 2006. In this year, the ASF found discrepancies in the resources allotted to the PHI between the Public Account and the NCSPH's financial statement (ASF 2006 IRRFSCP Tomo V Vol. 4: 217). More important, the NCSPH failed to document that 33 million dollars were used to deliver PHI cards and establish 1000 enrollment centers (2006 IRRFSCP Tomo V Vol. 4: 233-234; 237-239).

Health researchers have also found inconsistencies and irregularities in the operation of the PHI. In terms of health coverage, for instance, analysts argue that the PHI does not comply with the objective of reducing health inequalities given that there is unequal spending per capita across states. That is, poor states have to provide more

resources to the program than rich states since PHI rules establish a fixed state premium per family that all states have to pay, regardless of the state's number of families eligible for enrollment and its socio-economic condition (Scott 2006; Laurell 2007; Tamez and Eibenschutz 2008).²⁴ Other irregularities are the imprecise figures in the number of PHI beneficiaries. For instance, some states report over 100 percent coverage rates of their estimated target population of uninsured households. Similarly, there are differences between the NCSPH's and the DH's account of the uninsured population by state (Scott 2006: 155-156; Tamez and Eibenschutz 2008: 140-141). This lack of consistency and precision in the PHI's information hinders the effective functioning of the program and impedes its evaluation.

The National Center for the Prevention and Control of HIV (CENSIDA) is another DH institution that has been under stricter regulation since 2001. The ASF carried out two audits on this agency in 2004 and 2005. In the first year, the ASF found that CENSIDA failed to fulfill one of its main objectives, which was to reduce the rate of HIV sexual transmission by 15 percent within the population between the ages of 15 and 24 years. Despite the fact that CENSIDA's program of action included the implementation of specific and detailed policies and programs to prevent the sexual transmission of HIV, the institution only allocated 1.2 percent of its annual budget to programs related to prevention. CENSIDA also failed to achieve the objective of reducing the mortality rate in people between the ages of 24 and 44 years. The goal of CENSIDA's HIV action program and the 2001-2006 National Health Program was to

²⁴ The PHI is funded through three main sources: federal tax money, state tax money and a family premium (for details see Laurell 2007: 521).

reduce the mortality rate in this population by 16 percent. However, CENSIDA programs only reduced the mortality rate by 1.7 percent. Another irregularity found within CENSIDA was in its purchase and distribution of antiretroviral medicines, as the ASF reported that CENSIDA did not provide documentation verifying that 2 percent of its total spending was used on this activity. More important, the ASF report indicates that CENSIDA might have put the lives of HIV patients at risk, as the agency did not include resources in its annual budget for the purchase of antiretroviral treatments. The DH had to transfer resources to CENSIDA in order to comply with this objective (ASF 2004 IRRFSCP Tomo VII Vol. 1: 227-280).

In 2005, CENSIDA violated diverse regulations, including the reglamento of the GHL, by not updating its operating manuals. The ASF concluded that failure to update the manuals hindered the effective control of the resources from the public trust fund that went towards the system of social protection for health operations. The ASF also denounced the lack of accountability mechanisms in the management of the trust. Another important finding of the audit was that 33 percent of the resources allocated to the purchase of antiretroviral medicines were not spent by CENSIDA during the year (ASF 2005 IRRFSCP Tomo VII Vol. 1: 253-278). Despite these irregularities and the lack of transparency in the operation of CENSIDA, Congress increased the institution's resources by 25 percent in 2006 (Author interview: July 11, 2006).²⁵

In addition to the regular audits that the ASF carries out every year on federal agencies and programs, deputies can request special audits on certain agencies or policies

²⁵ The audit on the import of toxic substances, which has operated under strict regulations since 2001, did not report any wrongdoing (ASF 2006 IRRFSCP Tomo V Vol. 4: 115-125).

that they believe have committed wrongdoings that were not considered by the ASF.²⁶ The number of deputies' requests to make special audits increased significantly (694.4 percent) since the PAN won the presidency in 2000. In other words, while in 2001 there were thirty-six requests for audits, deputies asked the ASF to carry out 250 special audits in 2007 (ASF IRRFSCP Tomo Ejecutivo 2007: 39).²⁷ These figures are consistent with institutional theories that state that Congress carries out more oversight actions under democracy (Huber and Shipan 2002).

But although the number of deputies' special audits increased significantly, only eleven (1.19 percent) of these requests were to audit the health sector. While six of these requests asked the ASF to examine the operation of the NCSPH and the PHI, the rest of the audits assessed the DH donations to civil organizations, the decentralization of health services, the violation of health workers' rights, and the resources that the DH transferred to the IMSS.²⁸

The number and types of special audits conducted on the health sector indicate two points: First, legislators were not very interested in overseeing the functioning of the DH, its programs and agencies. As previously mentioned, in seven years there were only eleven (out of 929) deputy-requested special audits of the DH. Second, although

²⁶ The ASF selects the federal agencies and programs to be audited based on diverse criteria such as institutional relevance, economic indicators, and technical feasibility (see ASF Tomo Ejecutivo 2007: 15-18). Deputies supervise the work of the ASF through the Supervisory Committee. Deputies ask the ASF to conduct special audits to the ASF through the Supervisory Committee. During the PRI era, this committee was always headed by a PRI deputy. But since 1997 there has been an informal rule among political parties in Congress that the chair of the Supervisory committee has to be selected from one of the opposition parties.

²⁷ Moreover, there were fifty-six additional requests made by individual legislators and diverse committees (ASF Tomo Ejecutivo 2007: 39).

²⁸ This last audit was not carried out because the executive branch submitted a constitutional challenge to the Supreme Court (ASF 2005 Informe Ejecutivo: 58).

members of Congress established controls and restrictions in diverse health areas and programs since 2001 (see table 2 above), they were only interested in overseeing whether the DH bureaucrats were complying with the PHI legislation. It makes sense, then, that deputies asked the ASF to conduct six audits on the PHI between 2004 and 2007, given that this program was the main health policy of the PAN era. Although the ASF's focus on PHI can be seen as a wise use of scarce attention and resources, there were other very important policies, such as the control of tobacco, nutrition programs and the prevention and control of obesity, that were not examined by legislators (at least through audits).

While the results of the PHI audits show that this public program has had many irregularities in its operation, there were also wrongdoings found in the rest of the special audits requested by deputies. For example, the ASF found that there were no established procedures for the spending of DH donations to civil organizations (ASF IRRFSCP 2001 Tomo VIII Vol. 1: 40-43). Also, regarding the transfers that the federal government made to the states in 2001, it was found that Hacienda violated article 3 of the Ley de Coordinación Fiscal which instructs the agency to apply the concept of "equity of health services" among the states. The use of such an equity formula would have easily allowed the equal allocation of resources among state governments (ASF 2001 IRRFSCP Tomo VIII Vol. 1: 17-21). Finally, in 2004 the ASF uncovered that there were irregularities in 38.82 percent of the total amount allocated to the salaries of DH employees in the sub-department of the prevention and promotion of health (ASF 2004 IRRFSCP Tomo VII Vol. 1:147-169).

In sum, the ASF, either through its regular audits or the special audits requested by deputies, has found a wide range of irregularities in the health sector. Why do legislators tolerate these wrongdoings? Why do members of Congress not pressure authorities to sanction officials who commit illegal actions?

INFORMAL EXCHANGES BETWEEN LEGISLATORS AND BUREAUCRATS

The reason why legislators do not push authorities to sanction health bureaucrats is that members of Congress need favors from officials. There are at least two types of requests and favors that legislators ask of health officials:

1) Deputies and senators frequently contact top-level officials to ask for resources for local medical clinics and hospitals. Similarly, members of Congress request the DH to carry out special health programs in certain states or districts. Legislators make these petitions especially when Hacienda and the DH are preparing the annual budget for the health sector. Moreover, legislators demand the transfer of additional resources for the implementation of certain health programs in their states or districts during the fiscal year. Accordingly, legislators and health bureaucrats have meetings where deputies and senators request money transfers to specific districts, municipalities or states. Obtaining resources for local clinics or hospitals is very important for politicians' careers. According to information from interviews, every time legislators manage to get resources for the implementation of a health program or the construction of a medical clinic, they organize events in their districts for publicity and to claim credit for the achievement

(Author interviews: April 20, 26; May 5; November 1, 6, 7; 19; December 5, 2006; July 24, 2009).

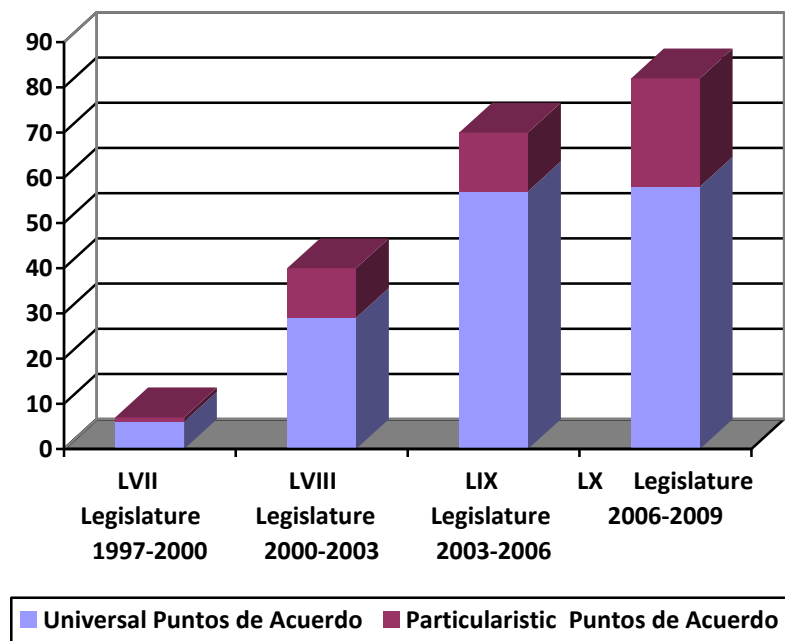
Evidence of legislators' demands for resources and requests for the implementation of policies for their districts and states is found in the *puntos de acuerdo*. As stated in the previous chapter, puntos de acuerdo (PA) are non-binding resolutions that lawmakers make to either point out a failure in a public policy, or to request resources or a specific program from executive agencies. Between 1997 and 2009, deputies initiated 199 health related PAs. Sixty-two of these PAs either demanded resources for local clinics and hospitals or requested the implementation of health policies in specific municipalities or regions.

Figure 5.4 shows the health related puntos de acuerdo initiated between 1997 and 2009 in the Chamber of Deputies. For each Legislature the figure depicts the PA that requested the implementation of universal policies and those that demanded specific resources or programs for particular states or municipalities.²⁹ As can be seen, the number of universal and particularistic PA has increased throughout the process of democratization in Mexico. The percentage of particularistic PA went from 14 percent in the LVII Legislature (1997-2000) to almost 30 percent during the LX Legislature (2006-2009). These figures seem to suggest that deputies are utilizing PA more frequently as a means to satisfy local or regional needs. Given that officials from the DH are not forced to abide by the PA's demands, legislators can only hope that bureaucrats will comply

²⁹ While the inclusion of the morning after pill in the basic chart of medicines provided by the DH is an example of a universal policy, deputies' request for resources for the construction of a hospital in the municipality of Tultitlán (Estado de México) is an instance of a particularistic punto de acuerdo.

with their requests. Therefore, in order to obtain resources and benefits for their districts and states, legislators must not cause trouble for the bureaucracy by modifying health legislation or by carrying out investigations to health programs. Put differently, legislators' dependence on bureaucrats' resources leads politicians to not effectively exert their control powers over the DH's policies and programs (Author interviews: July 12; August 7 2006; November 3, 6, 19; December 5, 2006).

Figure 5.4: Universal and Particularistic Health related Puntos de Acuerdo 1997-2009



2) Legislators frequently ask health bureaucrats for specific favors on behalf of their constituents, friends or relatives. For instance, members of Congress often ask DH officials to facilitate the entrance to the National Health Institutes and Federal Hospitals for their constituents. Although the health sector is decentralized (meaning that each state has its own hospitals and clinics) and that the IMSS and ISSSTE provide medical attention to salaried and government employees respectively, the DH coordinates the National Health Institutes. These institutes serve as research centers and specialized hospitals (cancer, cardiology, neurology, nutrition, pediatrics, and psychiatry, among others) that provide higher-quality medical attention than those of the IMSS, ISSSTE, or state hospitals. Furthermore, the National Health Institutes have the technology and resources to treat diseases that no other public hospital would be able to handle. According to interviews, legislators frequently contact health bureaucrats to ask them to "facilitate" entrance to the NHI for their cronies. In this way, health bureaucrats can help legislators' friends or relatives obtain high-quality medical attention for free or at low cost. Likewise, it is not uncommon for legislators to ask health officials to register their friends in the NHI in order to get expensive medical treatments for free. Legislators have also requested that health bureaucrats "recommend" their cronies or relatives for the National Medical Residency Exam, which is coordinated by the DH and which every medical student must pass in order to become a medical resident in any hospital or clinic in Mexico. (Author interviews: April 20; 26; May 15; July 11; November 1, 3, 7, 21; December 5, 2006; June 26; July 24, 2009).

Information obtained from interviews indicates that legislators usually contact health bureaucrats only when they are seeking favors. Stated differently, members of Congress are more interested in getting favors than overseeing the design and implementation of health policies and programs. As stated by one interviewee: “Legislators do not call me to check the implementation of health programs, they contact me when they ask me to do favors for their friends” (Author interview November 3, 2006). In this vein, a top-level official from CENSIDA stated that with certain regularity, deputies contact him to get AIDS treatments for some of their constituents (Author interview: July 11, 2006). Two top-level officials from the DH also affirmed that it is not uncommon for legislators to call them to solicit surgeries for their relatives in National Health Institutes or federal hospitals. Such surgeries would normally cost around 30 thousand dollars in private hospitals (Author interviews: June 26; July 24, 2009). Other health officials stated that legislators regularly ask them to find jobs for their allies within the DH (Author interviews: May 12; November 19 2006; July 24, 2009). Ninety percent of the health bureaucrats interviewed made similar statements. What is more, six deputies from three different parties and one legislative staff member admitted that getting favors for their constituents is a common practice in the bureaucratic-congressional relationship (Author interviews: April 20; 25, 26; May 15, 18; November 3, 10, 2006).

The information from interviews is consistent with the reports of the health committee in the Chamber of Deputies. These reports contain the number of citizens’ medical requests or *gestorías médicas* that deputies channeled to public hospitals, medical clinics or national institutes. Examples of *gestorías* are: reductions of medical

fees, exemption from medical charges, courtesy passes to specialized hospitals, payment facilities, renegotiation of medical debts, obtaining of medicines and orthopedic devices, channeling of patients to specialized hospitals, recommendation letters for medical students, appointments with public officials, among others (see Table 5.4 below). In order to satisfy these demands, legislators serve as intermediaries between their constituents, friends, or cronies and public officials of the DH, hospitals or national health institutes. The number of *gestorías* made during the democratic era is very high. According to the health committee reports, deputies carried out almost 10 thousand *gestorías* between 1997 and 2009.³⁰ Figure 5.5 shows the number of *gestorías* made by the health committee in the Chamber of Deputies by Legislature. Members of the health committee processed the most *gestorías* during the LVII Legislature (1997-2000) and, while the number of *gestorías* decreased during the LVIII (2000-2003) and LIX (2003-2006) Legislatures, it significantly increased again in the LXI Legislature (2006-2009).

³⁰ There are no health committee reports available in the *Gaceta Parlamentaria* before 1997. Some of the six-monthly or annual reports within this period (1997-2009) do not contain the number of *gestorías* made by deputies. Therefore, the total number of *gestorías* by Legislature is an estimate. The real number of *gestorías* is probably higher.

Figure 5.5: Gestorías Médicas Processed by the Health Committee of the Chamber of Deputies 1997-2009

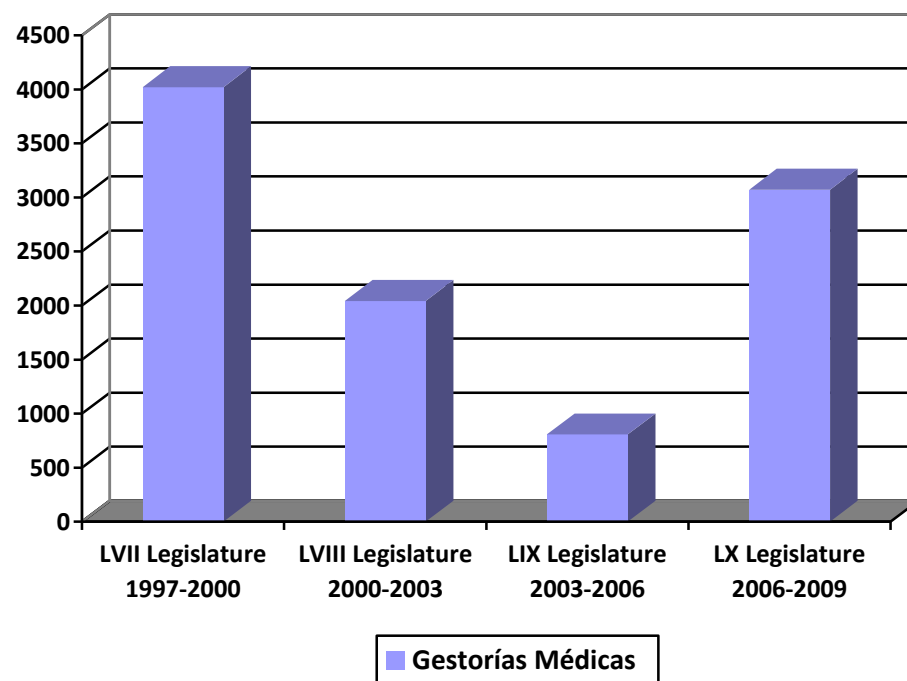


Table 5.4 provides an example of gestorías processed by the health committee during a particular year. As is illustrated in this example, the majority of citizens' petitions were channeled to the Department of Health's national institutes and hospitals. In this vein, while 191 gestorías were channeled to the DH's institutions between 1997 and 1998, only eighty-eight requests were routed to the Mexican Social Security Institute (IMSS). This fact is consistent with the statements from interviewees that the medical attention in the DH's institutes and hospitals is better than in IMSS or ISSSTE facilities. In other words, people who require specialized medical attention or who are

in need of costly surgeries or treatments prefer to receive care from the DH's hospitals and institutes, rather than from other medical centers. Table 5.5 shows that deputies processed a high number of gestorías aimed at exempting or reducing medical fees and charges—the majority of which were likewise channeled to DH institutes and hospitals.

Table 5.4: Report of Gestorías Médicas processed by the Health Committee from October 1997 to August 1998

ISSSTE		IMSS		Health Institutes of the Federal District Government		Secretaría de Salud (Department of Health)	
CMN 20 de Noviembre	20	Dirección General Dispensa de Trámite	48	Hospital General Balbuena	12	Asociación para evitar la Ceguera en México Dr. Luis Sánchez Bulnes	1
Hospital Regional del ISSSTE Toluca	1	Pases de Cortesía	8	Hospital General Xoco	8	Instituto Nal. de Enfermedades Respiratorias	24
Hospital Regional Lic. Adolfo López Mateos 12	18	CMN Siglo XXI	8	Hospital Pediátrico Moctezuma	7	Instituto Nal. de Pediatría	16
Hospital General 1°. de Octubre	12	CMN La Raza	8	Hospital Materno Infantil Inguarán	1	Instituto Nal. de Perinatología	27
Hospital General Dr. Darío Fernández	5	Hospital de Traumatología y Ortopedia Magdalena de las Salinas	8	Hospital General Hidalgo de Ags, Ags.	1	Instituto Nal. de la Nutrición	42
		H. de Traumatología y Ortopedia Lomas Verdes	5			Instituto Nal. de Ortopedia	21
		Hospital General de Zona núm. 32	2			Instituto Nal. de Cardiología	22
		Hospital General de Zona núm. 4, Celaya, Gto.	1			Instituto Nal. de Neurología y Neurocirugía	23
						Instituto Nal. de Cancerología	16
Total	56		88		29		191

Table 5.5: Type of Gestorías Médicas processed by the Health Committee from October 1997 to August 1998

Exemption of payment		Minimal fees		Reclassification of fees		Payment facilities	
Hospital Pediátrico Moctezuma	5	Instituto Nacional de Enfermedades Respiratorias	2	Hospital Psiquiátrico Fray Bernardino Alvarez	1	Hospital General de Balbuena	2
Hospital General de Balbuena	9	Instituto Nacional de Ortopedia	22	Hospital General de Amecameca	1		
Hospital Materno Infantil Inguarán	7	Instituto Nacional de la Nutrición	31	Instituto Nacional de Pediatría	2		
Hospital Infantil de México	3	Instituto Nacional de Cancerología	10	Instituto Nacional de Cardiología	7		
Hospital General de Atizapán	2	Instituto Nacional de Perinatología	22	Instituto Nacional de Cancerología	1		
Cruz Roja Mexicana	1	Instituto Nacional de Pediatría	13	Instituto Nacional de la Nutrición	2		
	27	Instituto Nacional Neurología y Neurocirugía	18				
		Instituto Nacional de Cardiología	14				
		Asociación para evitar la Ceguera en México	5				
		Hospital de la Mujer	22				
		Hospital Infantil de México	19				
		H. Gral. de Ecatepec Dr. José Ma. Rodríguez	5				

		Hospital General de México	30				
		Hospital General Dr. Manuel Gea González	11				
		H. Psiquiátrico de Agudos Fray Bernardino Alvarez	4				
		Centro Dermatológico Ladislao de la Pascua	8				
		Hospital General de Pachuca, Hgo.	1				
		Hospital General de Balbuena	4				
		Hospital General de Xoco	2				
Total	27		243		14		2

The high number of *gestorías* made by the health committee in the Chamber of Deputies confirms two important facts: First, there is frequent and ongoing contact between deputies and DH officials. Legislators make requests to top-level officials on behalf of their constituents, the fulfillment of which is important for advancing their political careers. By processing *gestorías*, deputies acquire political support from citizens and interest groups. Second, top-level officials carry out the majority of deputies' *gestorías*. Health committee reports from the LXI Legislature (2006-2009), which are the only reports that documented whether *gestorías* were in fact performed, show that approximately 65 percent of the legislators' petitions were executed by the bureaucracy. As Table 5.6 shows, the percentage of *gestorías* that were successfully carried out by the bureaucracy increased as the congressional session advanced. Accordingly, while 53.42 percent of *gestorías* had a positive outcome in the period March-August 2007, 76.37 percent of the constituents' requests were granted between October 2008 and February 2009. These figures suggest that as the legislative session comes to an end and legislators have to seek other positions because of the non-consecutive reelection rule, they make a greater effort to satisfy the petitions of their constituents, friends, and cronies.

Table 5.6: Status of Gestorías LXI Legislature 2006-2009

Health Committee Report	Favorable	Pending	Unfavorable	Total	% Favorable
Oct 2006- Feb 2007	NA	NA	NA	195	NA
Mar-Aug 2007	234	122	82	438	53.42
Oct 2007- Feb 2008	208	136	16	360	57.77
Mar-Aug 2008	585	180	16	781	74.9
Oct 2008- Feb 2009	957	278	18	1253	76.37
Mar-Aug 2009	NA	NA	NA	NA	NA

As in the case of the puntos de acuerdo, bureaucrats are not legally obliged to follow through with gestorías. Stated differently, the execution of deputies' requests depends on health officials' willingness. Therefore, the fulfillment of a gestoría is perceived as a favor that bureaucrats do for legislators. The lack of formal rules that would force bureaucrats to comply with gestorías creates a situation whereby legislators are dependent on the bureaucracy. This dependence encourages legislators to maintain a cordial relationship with top-level officials of the Department of Health by not effectively supervising their health programs.

Furthermore, although the ASF, health analysts and the media have denounced numerous irregularities and wrongdoings in the operation of health programs, legislators do not pressure authorities to sanction the offending health officials because they are beholden to bureaucrats for special favors and therefore refrain from "pressuring" them in terms of accountability and sanctions. When asked why legislators do not press authorities to sanction officials who do not comply with health legislation, a top-level official responded: "Why should they do it? It would not be convenient for them; it would go against their interests" (Author interview: May 15, 2006). As in the case of Hacienda, systematic oversight and control of health programs, as well as the sanctioning of bureaucrats, would reduce the flow of special favors and resources to lawmakers. As explained in chapter 2, legislators need these handouts to either increase their political prestige, pay back political debts with interest groups that support them, or advance their political careers. Consequently, there is an informal agreement by which health bureaucrats do special favors in exchange for legislators' tolerance for non-compliance with health legislation. Given that bureaucrats have control over health resources, and that the provision of medical services is still clientelistic, legislators tend not to hold officials accountable.

CONCLUSION

As in other policy areas, democratization greatly affected the Mexican health system. The most evident effect was the formal changes made to the General Health Law

since 2001. While the number of modifications to the GHIL since that time might suggest that health officials have become more constrained, in reality just 27 percent of the amendments established specific policy instructions and controls for the implementation of health policies and programs. Accordingly, formal changes to the health system have neither constrained bureaucrats' leeway (in laws), nor have they granted more authority to Congress to check and monitor the management of health programs.

The chapter also shows that, in practice, health officials have continued to manage health policies with almost the same level of discretion as in the PRI era. The persistence of ample bureaucratic leeway is more visible in those health areas where strict regulations were established, such as in the case of Popular Health Insurance. Not even in these health areas did officials fulfill legislation objectives or comply with its policy guidelines. Conversely, the low number of ASF audits on the Department of Health uncovered legislators' scarce interest in overseeing the functioning of the health system. Given that legislators paid little attention to the health sector, it is not surprising that they did not push authorities to sanction health officials who committed illegal actions or who failed to accomplish programs goals. The informal agreement between health officials and members of Congress, according to which the former allocate resources to or do special favors for the latter in exchange for bureaucratic discretion, hinders officials' effective accountability in democratic Mexico. The analysis of the health sector, specifically of the Department of Health, confirms that while democratization produced formal changes in laws, it did not generate significant modifications in bureaucrats' daily behavior.

CONCLUSION: INEFFECTIVE LEGISLATIVE OVERSIGHT AND ITS IMPLICATIONS FOR DEMOCRACY

Although democratization has brought significant change to many aspects of the Mexican political system, its effects on the legislative branch have been less significant than expected. Among the most important consequences of the regime change for Congress is that the president no longer controls the legislative agenda by himself. That is, Congress stopped acting as a rubber-stamp institution that almost unanimously ratified all of the president's bills. Since the emergence of divided government in 1997, the president has had to negotiate with opposition parties in order to pass his bills. Furthermore, political parties are now very active in both chambers of Congress and introduce dozens of laws during every legislative term. However, in terms of its representation and control functions, Congress continues to work almost exactly as it did in the PRI era. Regarding the representation of citizen interests, legislators' linkages with their constituents continue to be weak or even non-existent, given the prohibition of consecutive reelection. For instance, a 2009 survey revealed that only 20 percent of the citizenry knows the name of her deputy or senator (Gabinete de Comunicación Estratégica 2009: 83). The weak connection between the people and their legislators hinders the representation of citizenry in Congress (Bejar and Waldman 2004).

In regards to Congress' control function, this dissertation examines whether democratization increased the level of legislative oversight over the bureaucracy. Specifically, the dissertation analyzes the impact of the regime change on the

congressional control of two policy areas. The study of investigative committees (chapter 3) and the analysis of the fiscal and public health areas (chapters 4 and 5) show that legislative supervision of public programs remains at a low level. Accordingly, the dissertation argues that democratization has not had a significant effect on bureaucratic-legislative relations. This concluding chapter demonstrates that the mutual influence theory can best account for the findings of the case studies. The first section of the chapter summarizes the main empirical results of the dissertation. Section two puts forward broader theoretical implications. In particular, this section explains how the theory presented here contributes to institutionalist studies. It also examines how the lack of effective legislative oversight of the bureaucracy affects the quality of democracy in Mexico. The third section compares the dissertation's findings with other studies. Specifically, the Mexican case is compared with three important countries in South America: Argentina, Brazil, and Chile. This concluding chapter ends with ideas for future research.

MAIN FINDINGS

This dissertation develops a theory to explain why bureaucrats continue to have ample leeway in the design and implementation of public policies despite the establishment of strict controls in laws. The argument, based on the interactive models framework, and contrary to the bureaucratic autonomy and legislative dominance approaches, states that there is a bidirectional flow of authority between public officials and members of Congress. While legislators are able to impose formal checks and

restrictions in legislation that seeks to limit bureaucratic leeway, public officials exert informal power over lawmakers by deciding over the allocation of important resources. Given the executive branch's extensive intervention in economy and society, the ineffective application of the rule of law, and the absence of a Weberian state, there is an informal agreement between public officials and legislators by which the former distribute handouts to or do favors for the latter in exchange for discretion in the implementation of public programs. Politicians use bureaucrats' handouts to win the support of political allies or interest groups, thereby enhancing their electoral base. In this way, legislators utilize benefits granted by bureaucrats to maintain or advance their political careers.

Chapter 3 shows how democratization in Mexico brought the political changes that, according to the institutional literature, should foster greater legislative control over the bureaucracy. Since the PRI lost its majority in the Chamber of Deputies in 1997 and the PAN won the presidential elections of 2000, Mexico has had divided government with an increasing level of legislative capacity. As stated by rational choice institutionalists, these conditions should lead to a reduction in the level of bureaucratic discretion. However, the chapter documents how investigative committees, which are one of the main mechanisms for supervising the work of decentralized agencies and public enterprises, have increased in number but not in their effectiveness to sanction public officials who commit wrongdoings. The influence-peddling case involving President Fox's stepsons, for example, shows the ineffectiveness of investigative committees. Despite the fact that deputies formed three investigative committees and

denounced many irregularities and illicit activities in this case, not a single official involved was sanctioned.

Chapters 4 and 5 analyze legislative control in two key policy areas: fiscal policy and public health policy. In chapter 4, I use the mutual influence theory to explain the ineffectiveness of legislative controls over the allocation of diverse budget items between 1991 and 2006. The chapter documents how top Hacienda officials continue to violate fiscal legislation and manage federal resources at their discretion, despite the fact that members of Congress have passed multiple restrictive changes to annual budgets since 1997. Among the most important findings are that, despite precise instructions on the disclosure of financial information, Hacienda transgressed fiscal laws and failed to disclose information about tax payers, allocation of federal resources, budget surpluses, public investment, fiscal credits, customs taxes, and other important issues. Similarly, Hacienda violated budgetary laws regarding government income and spending. Hacienda officials did not follow the stipulations and guidelines established in the appropriations law and used public funds at their discretion. The most relevant of Hacienda's transgressions in this area were: misuse of money allocated to public programs, agencies' unauthorized budget modifications, excessive variation between the approved and implemented budget, partial failure to fulfill agencies' goals, lack of transparency and control in the allocation of subsidies and economic transfers to states, and underspending of public program funds.

Members of Congress tolerate systematic transgressions of fiscal laws because they need bureaucrats' handouts and favors to maintain or further their political careers.

Interviews reveal that Hacienda offers tax breaks to those entrepreneurial and interest groups that support lawmakers. In the same vein, once the legislative term is over, Hacienda grants positions within the agency or other government financial institutions to key members of Congress who defended bureaucrats' interests. The close relationship between Hacienda bureaucrats and key legislators of financial committees is remarkable. In fact, there were certain cases where Hacienda officials left their posts in order to become members of Congress. Once they finished their functions as legislators, they were rehired by Hacienda or other government institutions. Hacienda officials also commonly provide goods such as clothing or food to legislators (for distribution to their constituents) in exchange for either introducing or blocking certain articles in fiscal legislation, or for not supervising and sanctioning bureaucrats that committed wrongdoings or illicit acts.

Democratization did not encourage members of Congress to efficiently control health policies either. Chapter 5 documents how, despite multiple modifications to the General Health Law since 1997, only 27 percent of the reforms established clear constraints and reduced bureaucratic discretion. Furthermore, the chapter shows that Congress has not been very interested in supervising the health sector, as evidenced by the fact that just a few health policies and programs have been audited since democratization started. In other words, the Auditoría Superior de la Federación (ASF) carried out only 2.2 audits per year on the Department of Health between 2001 and 2007. The ASF reports of these audits revealed that important health programs such as the Popular Health Insurance have been mismanaged. For instance, in 2005 the National

Commission for Social Protection in Health, which is the institution that operates the Popular Health Insurance, failed to justify that 24.5 percent of its official budget was, in fact, spent on this health program. Despite the fact that ASF, health analysts, and the media denounced multiple irregularities in the management of these important programs, deputies and senators did not push the authorities to modify the course of health policies or to sanction officials that violated legislation.

As in the budgetary case, members of Congress do not exert control over health programs because they wish to stay on good terms with health bureaucrats who can channel desired resources and favors to them. The chapter presents evidence from interviews and the health committee of the Chamber of Deputies that it is not uncommon for legislators to ask top-level officials to allocate resources for local medical clinics and hospitals. In the same vein, deputies and senators frequently ask health officials for special favors on behalf of their constituents, relatives, and friends. For instance, members of Congress have asked top-level Department of Health officials to facilitate admission to specialized hospitals for their cronies. Similarly, legislators contact bureaucrats to get their friends or relatives free or low-cost medical treatments and surgeries, recommendations for the National Medical Residency Exam, or a position within the Department of Health. Strict congressional surveillance of health programs and the sanctioning of officials who have committed wrongdoings would almost certainly cut the flow of resources and favors that legislators need in order to advance their political careers.

THEORETICAL IMPLICATIONS

If, in fact, there is an informal agreement between legislators and bureaucrats in which members of Congress get benefits in exchange for accepting bureaucratic discretion, what are the theoretical implications of this finding? The analysis of bureaucratic-legislative relations in Mexico provides theoretical insights for the rational choice institutionalist literature, especially for the debate on whether or not politicians have effective control over the bureaucracy. As mentioned in Chapter 2 there are two theoretical approaches for the studying of the relationship between bureaucrats and legislators: the bureaucratic autonomy approach and the legislative dominance framework (principal-agent model). The first one claims the existence of a bureaucratic state in which politicians' influence in the management of public programs and budgets is merely marginal. The second approach states that politicians have effective control over public officials through the use of institutional mechanisms, such as procedures and statutes.

Both approaches, however, fail to explain the bureaucratic-congressional relationship in democratic Mexico. On the one hand, the bureaucratic autonomy approach cannot account for the new balance of power that has existed between bureaucrats and legislators in Mexico since 1997. Stated differently, with its assumption that public officials cannot be constrained, the bureaucratic autonomy framework is unable to explain the fact that legislators have established strict checks and controls in the management of public policies and programs, at least in terms of formal rules. On the other hand, principal-agent models do not capture the relationship of mutual influence

that exists between legislators and public officials. The legislative dominance approach also fails to explain why, despite the enactment of low-discretion legislation, bureaucrats continue to implement programs with ample leeway. Similarly, this framework does not say anything about why members of Congress tolerate bureaucrats' transgressions of the law.

One of the dissertation's main contributions to the literature is that it adds theoretical insights to the debate on politicians' control over the bureaucracy. In line with interactive models, the dissertation's findings reveal that the dominant framework, the principal-agent model, cannot successfully explain the bureaucratic-legislative relationship in political systems that lack a Weberian state, have extensive executive branch intervention in economy and society, and are characterized by a deficient rule of law. In these systems, politicians and bureaucrats have means and resources to influence each other. There is not a unilateral flow of authority from principals to agents, but bidirectional influence between these actors. Accordingly, while legislators exert formal control over the bureaucracy, bureaucrats have informal leverage over members of Congress. Therefore, one important theoretical implication of this study is that agents in developing countries are not completely subordinated to congressional power. Quite the opposite, public officials utilize state resources and their authority to influence the behavior of members of Congress and neutralize formal checks and constraints. Furthermore, bureaucrats in these settings do not have neutral values. Public officials are driven by specific political interests and act accordingly to reach certain goals. For their part, legislators also use their authority to limit bureaucratic leeway, at least in terms of

legislation. As described in chapters 4 and 5, since the PRI lost the majority of seats in the Chamber of Deputies, legislators gradually established information requirements, timetables, policy instructions, procedures, guidelines and other checks to limit bureaucratic leeway. In addition, legislators approved stipulations that empower them to request additional information from agencies and carry out investigations in order to oversee officials' behavior or to change the course of policies and programs. Members of Congress employ these institutional mechanisms to not only limit bureaucrats' management of public policies but also to threaten officials in order to extract more handouts for themselves or their cronies.

The dissertation also contributes to the institutionalist literature by showing that the institutional factors that rational choice writings claim reduce the level of bureaucratic discretion in First World countries, such as divided government and a high level of legislative capacity, do not have the same effect in developing nations. While democratization allowed for the emergence of these factors, they have only led to the establishment of checks and controls in legislation, and have not effectively constrained bureaucratic behavior in practice. Similarly, the case of Mexico reveals that a change in formal rules does not necessarily bring a change in bureaucratic behavior. The diverse restrictive changes made to fiscal and health laws since the start of democratization, along with the numerous transgressions by public officials, show that the enactment of legislation does not automatically shape bureaucratic behavior. Analyses of the bureaucratic-legislative relationship in developing countries should take into account the limited constraining power of formal rules in these settings. Moreover, such studies

should examine the effect that informal rules have on the relationships between political actors. In the Mexican case, the analysis of the bureaucratic-legislative relationship would have been incomplete had the dissertation only focused on the effect of formal rules. The implicit agreement between members of Congress and top-level officials, by which the lawmakers get handouts in exchange for bureaucratic leeway, reveals the impact of informal rules on the politics of developing countries.

In the words of Helmke and Levitsky (2006: 5), informal institutions are defined “as socially shared rules, usually unwritten, that are created, communicated, and enforced outside officially sanctioned channels”. The informal agreement between public officials and legislators in Mexico fits Helmke and Levitsky’s definition for three reasons. First, the implicit pact is an unwritten rule between top-level bureaucrats and members of Congress in which each actor has expectations about the other’s behavior. Second, the agreement was created and is frequently communicated through non-official or informal means such as non-public meetings and under-the-table negotiations between these actors. Finally, both actors know that there would be sanctions if they did not comply with the pact. Bureaucrats, for example, would cut the flow of resources and favors if legislators decided to carry out oversight actions that would ultimately lead to sanctions on bureaucrats. And legislators would either establish severe constraints and controls in legislation or initiate investigations if bureaucrats did not provide them with handouts.

In particular, the type of informal rule found in the bureaucratic-legislative relationship in Mexico falls into the category of “competing informal institutions”, as classified by Helmke and Levitsky (2006: 13-19). According to these scholars, this type

of informal institutions coexists with ineffective formal institutions. Competing informal institutions “structure incentives in ways that are incompatible with the formal rules... [they] trump their formal counterparts, generating outcomes that diverge markedly from what is expected from the formal rules” (Helmke and Levitsky 2006: 15). The informal agreement between legislators and bureaucrats is clearly incompatible with formal legislation since such agreement allows for receiving favors granted by bureaucrats. At the same time, the existence of this informal institution allows public officials to deviate from written rules, thereby producing very different policy outcomes from those mandated in legislation by members of Congress. For instance, as documented in chapter 4, the overspending in diverse executive agencies transgressed the stipulations of the annual appropriations laws. On many occasions, this overspending was used for purposes different from those established in budgetary legislation. In contrast to other types of informal institutions, the implicit pact between members of Congress and public officials in Mexico undermines the rule of law and, subsequently, the quality of democracy.

The dissertation also provides theoretical insights for students of Mexican politics. The PRI’s loss of its absolute majority in the Chamber of Deputies in 1997 and the PAN’s victory in the 2000 presidential election, along with the recurrence of divided government, have significantly changed the executive-legislative relationship in Mexico. Most scholars have studied this transformation either by analyzing the gradual decline in the president’s ability to propose and pass his own legislation (Casar 2000; Lujambio 2000; Nacif 2002; Nava, Weldon and Yáñez 2000; Weldon 2004) or by examining the federal budget (Casar 2001; Chávez Presa 2000; Ugalde 2000; Weldon 2002). Other

studies have looked at the role of legislative committees or legislative careers (Nacif 2000; Langston and Aparicio 2009; Langston 2009). Few studies, however, have assessed to what extent Congress has been able to limit bureaucrats' authority in policymaking. This research project analyzes the executive-legislative relationship by examining whether democratization increased the level of legislative control over the bureaucracy. The findings of the dissertation reveal that although democracy has allowed Congress to strengthen its legislative function by modifying and rejecting executive bills, it has not reinforced its control powers, which have remained as ineffective as in the PRI era. Accordingly, the change of regime has not advanced a system of effective checks and balances where members of Congress systematically and continuously hold bureaucrats accountable for their performance.

The ineffective oversight and failure to sanction agencies' wrongdoings also have implications for the quality of democracy in Mexico. As Ippolito (2004: 174) and other authors state, democracy "is not only an instrumental arrangement to elect those who govern" but a system in which citizens' rights are protected. Although the assessment of the quality of democracy necessarily implies the examination of various dimensions, the following discussion focuses on two important components of democratic regimes (O'Donnell 2004: 31-37).¹ The first component is a legal system that prevents anyone from being above the law. The second is the existence of state institutions that are authorized and empowered to exercise horizontal accountability (O'Donnell 2004: 33,

¹ O'Donnell (2004: 33) defines five unique characteristics of democracy: 1) fair and institutionalized elections; 2) a set of participatory rights and political freedoms without which those elections would be meaningless; 3) an inclusive and (boundedly) universalistic wager; 4) a legal system that enacts and backs—at least—the rights and freedoms; and 5) a legal systems that prevents anyone from being de *legibus solutus*.

36). Both components are necessary for the protection of citizens' rights. That is, individual rights are safer under a system that impedes rulers from acting beyond the limits of legislation and that has state institutions, such as Congress, that hold public officials accountable.

The informal agreement between legislators and bureaucrats weakens the quality of democracy for at least two reasons: First, the superficial monitoring of public programs and the failure to punish officials' infringements of laws bolster the deficient rule of law in Mexico. This problem is especially worrisome since not only public officials transgress laws, but lawmakers are not constrained by legislation as well. As stated in chapter 4, bureaucrats, as well as members of Congress, violated laws and failed to comply with the constitutional mandate of overseeing the work of executive agencies. This failure is quite remarkable given that legislators are the ones who approve laws. A striking example of legislators' deliberate transgression of constitutional stipulations is the fact that, until 2010, the Chamber of Deputies had not approved the Public Accounts (or *Cuentas Públicas*, the government's annual records of all financial operations) since 2002, although deputies themselves had established deadlines to approve them. The ineffective rule of law allows for the discretionary management of government programs by public officials and furthers politicians' usage of clientelistic relationships to advance their political interests.

Furthermore, the refusal of members of Congress to oversee public policies and programs inevitably leads to bureaucratic abuse of power, to which the low number of sanctions imposed by federal authorities contributes as well. It is important to remember

that the ASF is the auditing office of the Chamber of Deputies and, consequently, it does not have legal authority to sanction public officials that commit illegal acts. In order to impose a sanction, the ASF has to denounce bureaucrats' wrongdoings either before the Secretaría de la Función Pública (or SFP, the executive agency that sanctions public officials who commit illegal actions)—when officials violate administrative laws—or before the Ministerio Público (Public Prosecutor's Office), in the case of a major offense.² Most of the ASF's accusations do not end in sanctions but in simple warnings to bureaucrats. Between 1998 and 2007 the ASF presented charges against only thirty-one public officials before the Ministerio Público (ASF 2009: 632).³ Similarly, although between 2001 and 2007 the ASF accused 3049 public officials of administrative infringements before the SFP, it is unknown how many of them were subsequently punished (ASF 2009: 382). Morris (2009: 117) shows that the number of sanctions by the SFP actually decreased between 1995 and 2006. And whereas during the Zedillo administration there were 191 sanctions per year for bribery and extortion, there were just 127 under the Fox administration. These figures are not surprising given that diverse studies point out that governmental corruption has not significantly decreased in the democratic era. According to Transparencia Mexicana, a Mexican NGO dedicated to fighting corruption, the level of bureaucratic corruption has been virtually the same since the beginning of the Fox administration. For example, while in 2001 Mexico got a score of 10.6 in the National Index of Corruption and Good Government (where zero indicates

² Regardless of the ASF's charges against public officials, the SFP has the mandate to supervise by itself administrative procedures, as well as to investigate and sanction bureaucrats' illegal behavior.

³ The ASF's report does not specify how many officials were sanctioned (Auditoría Superior de la Federación, Informe para la Honorable Cámara de Diputados, Estado de trámite y conclusión de las acciones emitidas a las entidades fiscalizadas. Corte al 30 de septiembre de 2009. Informe General).

no corruption), the score for 2007 was 10. Similarly, while 214 million acts of corruption occurred in 2001, there were 197 million in 2007 (Transparencia Mexicana 2005; 2007). The low number of effective sanctions for bureaucrats' wrongdoings leaves restrictive laws without constraining power. Taken together, these practices of discretionary allocation of government resources, politicians' extensive use of patronage, and the non-sanctioning of public officials' wrongdoings weaken Mexican democracy because they hinder the universalistic allocation of resources, the implementation of efficient public services, and the punishment of illegal bureaucratic behavior.

All these failures contribute to people's distrust in government institutions, and in democracy in general, as demonstrated by recent surveys. For instance, in August 2008 the Mexican newspaper *Reforma* reported that only 24 percent of the population has either "a lot" or "some" trust in Congress (Moreno 2008).⁴ Similarly, the Latinobarómetro 2009 revealed that Mexico is the country in Latin America with the lowest number of people who consider democracy to be the best system of government. That is, whereas 76 percent of Latin American citizens, on average, hold that view, only 62 percent of Mexicans support democracy (Moreno 2009). In the same vein, another survey found that only 36 percent of citizens were satisfied with Mexico's democracy (Woldenberg 2008). Although public officials' and politicians' transgressions of the law are not the only causes of citizens' disenchantment with democracy, they can only further undermine people's trust in this form of government.

⁴ The same survey points out that the Mexican Army is the only institution that received a majority of support (64 percent) among the citizenry.

Second, unlimited bureaucratic discretion, as well as officials' impunity, lessen the quality of democracy because these actions weaken Mexico's institutional framework. Put differently, the transactions that occur between legislators and bureaucrats, where the former obtain benefits in exchange for discretion, undermine the power of Congress as an institution and subvert the system of checks and balances. The Mexican constitution calls on Congress, among other duties, to revise, monitor, supervise, oversee, and control the work of executive agencies and to sanction any bureaucratic wrongdoing. By deliberately failing to perform this function, deputies and senators leave the design and implementation of policies and programs to bureaucrats' discretion. Consequently, members of Congress allow public officials to dominate the decision-making process. This acquiescence produces a disparity of power between the legislative and executive branches of government. Although individual legislators may benefit from the informal agreement, in which they receive handouts and government resources to advance their careers in exchange for their consent to carry out public programs at bureaucrats' discretion, Congress--as an institution--loses leverage, especially in the policymaking arena. Legislators' refusal to exert their control function, then, distorts the institutional arrangement and generates disequilibrium of power between the branches of government. Such a disparity has negative consequences not only for Congress but also for the citizenry, given that public officials may abuse their authority by implementing policies and programs that bring benefits only to themselves or their cronies. In sum, legislators' decision not to use their authority violates the institutional arrangement of democracy, damages the system of checks and balances,

enhances executives agencies' power *vis-à-vis* Congress, allows for the abuse of bureaucratic power, and fails to protect citizens' rights. All of these by-products of the lack of effective legislative oversight of the bureaucracy negatively affect the quality of democracy in Mexico.

COMPARATIVE PERSPECTIVES

Is the lack of effective legislative control over the bureaucracy a political phenomenon unique to Mexico, or is it a more common problem? How do the dissertation's findings on Mexico compare to scholars' findings regarding other countries? Before answering these questions, it is important to recall that the bureaucratic-legislative relationship has not been studied in-depth in developing countries. In Latin America, there are few studies that examine congressional control over the bureaucracy. And while most scholars agree that the level of congressional control over the bureaucracy is either low or ineffective, they differ in their explanations of why legislators do not exert effective supervision of executive agencies' work. This section examines whether patterns similar to those found in Mexico prevail in Argentina, Brazil, and Chile.

What is the level of legislative control over the bureaucracy in these South American countries? As in Mexico, the majority of the studies on bureaucratic-congressional relations in Argentina, Brazil, and Chile state that the level of congressional oversight over the bureaucracy is low, especially when compared to the

high degree of supervision in the U.S. and other developed countries (Eaton 2003; Figueiredo 2001, 2003; Morgenstern and Manzetti 2003; Palanza 2006, 2009). Although these studies agree that lawmakers in these South American countries do not hold bureaucrats accountable, the factors that explain this phenomenon differ from those that explain the persistence of bureaucratic leeway in democratic Mexico. In contrast to this research project, nearly all these analyses use at least one institutional factor to account for the ineffective supervision of public policies. In this vein, constitutional constraints on the legislature, executive decrees, executive agenda setting powers, party leaders' control over candidate nominations, and party discipline are frequently put forward as explanatory variables. Other studies underscore the effect of contextual factors and incentives on the level of legislative oversight (see table C1 below).

Table C.1: Legislative Control over the Bureaucracy in Argentina, Brazil and Chile

Country	Author(s)	Level of Legislative Control Over the Bureaucracy	Explanatory Factors
Argentina	Eaton (2003)	Low	<ul style="list-style-type: none"> • Party discipline • Presidents' party majority in Congress
	Morgenstern and Manzetti (2003)	Low	<ul style="list-style-type: none"> • No independence of the Legislature from the executive branch • Parties' control over legislators • Frequent use of executive decrees • Economic crises
	Palanza (2006)	Low	<ul style="list-style-type: none"> • Electoral system • Party leaders' control over legislators • Low reelection rate
	Palanza (2009)	Low	<ul style="list-style-type: none"> • Unified government • Individual legislators' leverage
Brazil	Figueiredo (2001; 2003)	Low	<ul style="list-style-type: none"> • Strong legislative powers of the president (executive decree, agenda setting) • Party leaders' control over legislators • Coalition governments
	Lemos (2006; 2009)	Intermediate but ineffective	<ul style="list-style-type: none"> • Individual (parties' ideological preference) • Institutional (bicameralism; internal organization of legislative work) • Contextual (Electoral and honeymoon periods)
	Siavelis (2000, 2002)	Low, but higher than in any other Latin American Legislature	<ul style="list-style-type: none"> • Strong legislative powers of the executive branch • Legacy of authoritarian period • Informal institutions (frequent

Chile			meetings between officials and legislators, <i>cuoteo político</i>)
	Ferraro (2008)	High	<ul style="list-style-type: none"> • Informal institutions (legislative patronage, networks of contacts, the specialization in areas of public policy, and the <i>cuoteo político</i>)

In Argentina, institutional factors seem to account for the lack of effective congressional oversight of public policies (Eaton 2003; Morgenstern and Manzetti 2003; Palanza 2006). In this vein, party leaders' control over lawmakers, the majority status of the presidents' party in Congress, and executive decrees are the main variables that explain the low number of serious congressional investigations of public policies. For instance, in his study of Argentina's tax reform during the 1990s, Eaton (2003) argues that Congress' delegation of ample leeway to the tax bureaucracy is explained by a high level of party discipline and the Peronist majority in the legislature.

Figueiredo's (2001, 2003) studies on Brazil reveal that the degree of congressional control over the bureaucracy is also low. The author claims that, in addition to executive decrees and party leaders' centralized control of legislative policymaking, the formation of coalition governments negatively affects congressional control over officials in Brazil. Accordingly, coalition governments increase the president's ability to dominate the policy-making process and lessen Congress' power to oversee executive actions. Although there are no coalition governments in Mexico, temporary alliances in Congress between the PAN and PRI seem to operate like coalition

governments in Brazil given that these parties have prevented the sanctioning of bureaucrats involved in unlawful actions, as observed in the Bribiesca influence-peddling case.

In contrast to the limited legislative powers of the executive branch in Mexico, presidents in Argentina, Brazil and Chile have greater congressional powers. As previously mentioned, these formal powers are said to account for ineffective legislative control over governmental programs, at least in Argentina and Brazil (Eaton 2003; Figueiredo 2001, 2003; Morgenstern and Manzetti 2003; Palanza 2006). Even when Mexican presidents cannot utilize executive decrees or agenda setting powers to exert leverage on Congress, bureaucrats manage to implement public programs without congressional constraints through the use of informal tools. Public officials thus allocate resources and do favors for legislators in exchange for leeway to carry out government programs. Hence, the Mexican case suggests that presidents' strong legislative powers are not the main explanation for the ineffective legislative oversight of the bureaucracy.

As described above, Argentina and Brazil specialists invoke formal-institutional factors to explain the lack of legislative control over the bureaucracy. These studies clearly contrast with the Mexican case where those formal-institutional factors do not apply but there still is ineffective oversight of public policies. This difference suggests that formal institutions are not the decisive, necessary, and sufficient cause of that outcome at least in these three countries. Instead, there may be a substitution effect: the executive branch and the bureaucracy tend to be dominant either through formal institutional means, or where such formal institutional factors differ, as in Mexico, they

use informal mechanisms. Stated differently, where formal-institutional factors do not favor the bureaucracy, it can still use informal mechanisms to defend its discretion. Therefore, the ultimate outcome (ineffective congressional oversight) does not "depend" on institutional factors but on informal practices.

In fact, there are some studies that recognize the effect of informal factors on bureaucratic-legislative relationships. The findings of Lemos on Brazil and Palanza on Argentina reveal that members of Congress use legislative oversight as a bargaining tool to obtain benefits from the executive agencies, thus advancing their political interests (Lemos 2006: 110; Palanza 2006: 3). For instance, Palanza's research on Argentina (2009) uncovers that written inquiries initiated by powerful legislators tend not to find a rapid executive response through formal means. Instead, individual members of Congress and bureaucrats enter into informal negotiations through which the former are successful in extracting resources from the latter. This similarity proves two important facts: first, the executive branches in Argentina and Brazil also deeply intervene in economic and social spheres, and legislators are incapable of balancing presidents' influence, despite their ability to be reelected. Second, members of Congress and top-level officials in these South American countries also participate in informal negotiations in which the former use their legal authority to extract resources from the latter. This exchange suggests that, although individual legislators may increase their leverage, Congress—as a legislative institution—is neither effectively checking the work of executive agencies nor sanctioning any bureaucratic wrongdoings.

Although most analyses of bureaucratic-congressional relationships in these South American countries document ineffective congressional control over executive agencies, some studies on Brazil and Chile assert that the legislatures of these countries exert a higher level of control over policies than those of Mexico. In this vein, Lemos (2006, 2009) argues that legislative control of the bureaucracy exists in Brazil since oversight is one of the main activities performed by the Brazilian Congress. According to Lemos, supervision actions, such as hearings and summoning of ministers, represent approximately 35 percent of the congressional workload. However, despite this high percentage, the amount of supervision activities is not necessarily a reliable indicator of the effectiveness of legislative oversight. Therefore, it cannot be inferred from Lemos' analyses whether the Brazilian Congress is, in fact, effectively checking the bureaucracy's work. As in Mexico, congressional hearings and other oversight actions in Brazil may be ineffective mechanisms to modify policies or sanction bureaucrats.

Siavelis (2000, 2002) and Ferraro's works (2008) on Chile present very different findings from those of Mexico. These studies suggest that, despite legislators' limited formal powers, the Chilean Congress is more effective in holding public officials accountable than the congresses of Argentina, Brazil and Mexico. As in this dissertation, Siavelis (2002) and Ferraro (2008) recognize the existence of informal mechanisms in the bureaucratic-legislative relationship. But in contrast to the informal agreement between politicians and officials in Mexico, Siavelis and Ferraro argue that informal tools in Chile favor legislators' control over public policies and programs. That is, through the use of informal mechanisms legislators balance the greater formal powers that the constitution

grants to the executive branch. The continuous use of these informal mechanisms allows Congress to wield significant influence over the bureaucracy. For instance, legislative patronage is the informal practice through which deputies and senators from the governing coalition recommend candidates to fill positions in the public administration. According to Ferraro and Siavelis, the cronies recommended by deputies and senators respond to legislators' interests. In this vein, members of Congress exert influence on executive agencies' decisions and have control over the bureaucracy.

Siavelis and Ferraro's finding, that informal mechanisms are used by Chilean legislators to exert influence over the bureaucracy, is quite contradictory to the findings of this dissertation, since Mexican officials use informal tools to neutralize constraints and controls established in legislation. However, it is important to mention that the fact that congressional influence on public policies exists in Chile does not necessarily mean that Congress effectively supervises the bureaucracy. In other words, the use of informal mechanisms may help legislators to have leverage on executive agencies but bureaucrats may still have ample discretion to design and implement programs. Moreover, as in Mexico, Chilean officials may also distribute government resources to 'buy' discretion or stop congressional investigations. Therefore, it cannot be stated from Ferraro and Siavelis studies that Congress is the dominant actor in Chile.

As regards which branch of government dominates the other, almost all analyses conclude that presidents dominate the policy arena and, consequently, legislatures' influence on policies is marginal (Eaton 2003; Figueiredo 2001, 2003; Morgenstern and Manzetti 2003; Palanza 2006, 2009; Siavelis 2000). However, Siavelis (2002) and

Ferraro (2008) depict “interbranch cooperation” or balance of power between the legislative and executive branches in Chile. While the former utilizes informal mechanisms to influence public policies, the latter uses its formal powers to exert leverage on Chile’s Congress. This finding is similar to the relationship between politicians and officials in Mexico, in that in both countries there is mutual influence between both actors. The Chilean case is different from the Mexican one, however, in that Chilean legislators employ informal mechanisms to shape policies, while in Mexico bureaucrats use informal mechanisms in exchange for discretion and members of Congress use formal rules (legislation) to try to constrain bureaucratic behavior.

More research is needed before concluding that there is a balance of power between the legislative and executive branches in Chile. As stated above, Siavelis and Ferraro analyses suggest that the president in Chile is not as powerful as formal rules establish and that legislators use informal mechanisms to exert leverage on public policies. However, this finding does not necessarily mean that lawmakers exert significant control over the bureaucracy. As in Mexico, officials in Chile may offer handouts to legislators in exchange for discretion to carry out governmental programs. Similarly, bureaucrats may do favors to legislators’ cronies in order to prevent effective congressional oversight.

In sum, it seems that Argentina, Brazil and Mexico have similar patterns of bureaucratic-legislative relations, and that the level of congressional oversight in the three countries is low. Although Argentina and Brazil specialists claim that formal-institutional factors account for the ineffective supervision of the bureaucracy’s work, the findings on

Mexico suggest that formal mechanisms are not decisive. Instead, informal practices seem to better account for the lawmakers' failure to monitor governmental programs.

As regards of Chile, although it is likely that legislators exert more influence on policies than lawmakers in the other countries, it cannot be affirmed that Congress is dominant and that it effectively supervises the bureaucracy.

Final Remarks

This dissertation started with the question: Has democracy made bureaucrats accountable? Even though democratization in Mexico has led to the strengthening of certain functions of Congress—especially its proposing, amending and blocking powers—legislative control of the bureaucracy has barely increased in the democratic era. The factors that, according to the dominant institutionalist approach, decrease the level of bureaucratic discretion have only had a limited effect on reducing officials' leeway to implement public policies and programs. The analysis of the budgetary process and of health policies suggests that divided governments with unified legislatures, coupled with a higher level of legislative capacity, have allowed legislators to enact stricter laws. However, the analysis of fiscal and health policies also illustrates that changes in formal rules have not significantly altered officials' behavior.

Mexican public officials have the political power to influence their controllers. The source of this bureaucratic power lies in their capacity to control valuable resources on which legislators depend. Accordingly, bureaucrats and lawmakers enter into informal

patron-client relationships where the former provide governmental resources or favors to the latter in exchange for their consent to carry out public policies in a discretionary manner. Thus, legislators deliberately refrain from using their control powers to rein in agencies. In the same vein, democracy has not induced legislators to press authorities to sanction bureaucratic failures. What democracy did bring about was an increase in individual legislators' influence on executive agencies. In other words, while Congress' effective level of control over the bureaucracy has remained almost as low as in the PRI era, the political leverage of individual deputies and senators has increased. The plural configuration of Congress, along with the enactment of strict legislation, has allowed individual legislators to negotiate benefits or favors with public officials in exchange for bureaucratic discretion and immunity. Effective oversight actions on certain public policies or programs lead bureaucrats to cut the flow of resources that are distributed to legislators.

The findings of the dissertation, then, suggest that there is perverse accountability (c.f. Stokes 2005) in Mexico, where legislators accept bureaucratic discretion in the implementation of public programs in exchange for personal benefits and favors to advance their political careers. This type of accountability is harmful because it results in Congress' failure to comply with its mandate of counterbalancing the executive branch. Accordingly, Congress fails to effectively and systematically oversee, supervise, control, and modify public policies. Likewise, it does not press authorities to impose sanctions on bureaucrats who have committed wrongdoings. Individual members, then, typically use

their authority to extract benefits for themselves, their cronies, or their constituents instead of complying with their constitutional mandate to control the bureaucracy.

The case study of Mexico suggests that the explanatory power of the principal-agent framework is limited in countries without a Weberian state, with deficient rule of law, and with extensive state intervention. In these settings, legislators may be able to reduce bureaucratic discretion in formal legislation, but in practice they still allow ample bureaucratic discretion to design and implement public policies. Although democratization has produced changes that give more formal control powers to legislatures, it has not eliminated the informal mechanisms used by bureaucrats to influence legislators. The lack of adherence to formal regulations indicates that while democracy may facilitate conditions conducive to bureaucratic accountability, it will not necessarily make it happen. In other words, democracy is a necessary but not sufficient condition for holding public officials accountable.

This dissertation's principal argument—that there is mutual influence between legislators and top-level officials by which the former get benefits in exchange for bureaucratic discretion—can be tested in other policy areas. For instance, field research in the environmental policy area has uncovered a similar lack of congressional control over its policies. Information from interviews reveals that politicians only exert their oversight functions when their interests are being damaged by environmental policies. Non-governmental environmental organizations play an important role in this policy area given that they press Congress to act against certain policies. Additionally, these NGOs provide expertise and information to environmental committees within Congress in an

effort to counterbalance the asymmetry of information that favors the Environment Department. In the same vein, activists press legislators to enact stricter regulations to protect the environment. However, as in the case of fiscal and health policies, members of Congress rarely push authorities to sanction businesses and industries that violate environmental legislation.

Further research needs to be conducted in other areas in order to see if the level of oversight is as low as it is in the fiscal and health policy areas. Education and labor policies may be good areas for future research, as investigations in these areas may reveal whether parents' organizations and unions have an effect on the degree of legislative control over executive agencies. Foreign affair is another area where research may uncover different patterns in the bureaucratic-legislative relationship. Given that diplomatic appointments and international treaties have to be frequently ratified by the Mexican Senate, it is likely that senators could wield considerable influence over the Foreign Affairs Ministry. Stated differently, since senators have powerful institutional mechanisms to influence foreign affairs officials, one would expect a greater balance of power in this policy area.

Furthermore, studies on bureaucratic-legislative relations in other developing countries may reveal both common patterns and important differences. As mentioned above, there are few studies that analyze bureaucratic-legislative relationships in the developing world. Comparative studies may focus on the effect that different constitutional designs and rules have on the level of legislative oversight of certain public programs. For instance, comparative analyses may uncover the impact of consecutive

legislative reelection on congressional monitoring. Similarly, it may be important to know why informal rules in Chile, for example, produce a greater balance of power between the legislative and executive branches, while in Mexico unwritten rules generate benefits for individual legislators but weaken Congress as an institution. In sum, more research needs to be carried out in order to know why democratization has not made bureaucrats more accountable in the developing world.

APPENDIX

LIST OF INTERVIEWS

Almaguer, Alejandro. Director of Traditional Medicine and Intercultural Development, Secretaría de Salud.

Aramburu, José María. General Director of Financial Products and Services, Comisión Nacional para la Defensa de los Usuarios de las Instituciones Financieras (CONDUSEF), Secretaría de Hacienda y Crédito Público.

Arce, Adriana. Legislative Assistant to the President of the Senate, LVIII and LIX Legislatures.

Arrocha, Ana Silvia. Advisor to the Secretary, Secretaría de Medio Ambiente y Recursos Naturales.

Azuela, Antonio. General Attorney, Procuraduría Federal de Protección al Ambiente (PROFEPA), Secretaría de Medio Ambiente y Recursos Naturales.

Bandala, Carlos. Chief of the Technical Unit, Secretaría de Hacienda y Crédito Público.

Barnés, Guillermo. PRI Deputy, LVII Legislature; Oficial Mayor 1995-1996, Secretaría de Hacienda y Crédito Público.

Barraza, Enrique. Assistant Director of the Office of the Secretary, Secretaría de Hacienda y Crédito Público.

Begné, Alberto. President of the Partido Alternativa Social Demócrata (PASD).

Borrego, Genaro. PRI Senator, LVIII and LIX Legislatures.

Bugeda, Beatriz. Country Director of the International Fund for Animal Welfare (IFAW).

Camacho, César. PRI Senator, LVIII and LIX Legislatures.

Carreño, José. Director of Social Communication 1992-1994, Presidencia de la República.

Chavarría, Raúl. PAN Deputy, LIX Legislature.

Chávez, Jorge. Secretario and Chair of the Hacienda Committee in the Chamber of Deputies, LVIII Legislature; Undersecretary 1998-2000, Secretaría de Energía, Minas e Industria Paraestatal.

Chávez, Miguel. Advisor to the Hacienda Committee in the Chamber of Deputies, LVIII and LIX Legislatures.

Cossío, José Ramón. Supreme Court Justice.

Dávila, Mauricio. Secretario Técnico of the International Affairs Committee (North America) in the Senate, LIX Legislature.

De la Vega, Netzahualcóyotl. PRI Senator, LVIII and LIX Legislatures.

Delgado, Martha. Independent Deputy, Asamblea Legislativa del Distrito Federal, III Legislature.

Díaz, Francisco Javier. Secretario Técnico of the Social Development Committee in the Senate, LVIII and LIX Legislatures.

Dorantes, Javier. Analyst, Fundación Mexicana para la Salud (FUNSALUD).

Fabre, Luis. Vice President of the Comisión Nacional para la Defensa de los Usuarios de las Instituciones Financieras (CONDUSEF), Secretaría de Hacienda y Crédito Público); Secretario Técnico of the Hacienda Committee in the Chamber of Deputies, LVIII Legislature.

Fernández, Adrián. President of the Instituto Nacional de Ecología (INE), Secretaría de Medio Ambiente y Recursos Naturales.

Gallardo, Andrés. Legislative Staff of the Instituto de Investigaciones Legislativas, Chamber of Deputies, LVII Legislature.

García, Hernán. Assistant Director of Complementary Attention Systems, Secretaría de Salud.

García, Rafael. PRD Deputy, LIX Legislature.

Garza, Laura Alicia. PRI Senator, LVIII and LIX Legislatures.

Gay, Juan Gabriel. Assistant Director of Sustainable Health Services, Secretaría de Salud.

González, Alejandra. Health Consultant.

Guerrero, Francisco. Chief of Staff of the PRI Grouping at the Senate, LVIII and LIX Legislatures.

Gutiérrez, Gonzalo. Chief of Medical Unit, Instituto Mexicano del Seguro Social (IMSS).

Guzman, Janitzio. Legislative Staff of PRI Deputy Marco Antonio García, LIX Legislature.

Hernández, Gonzalo. Executive Secretary of Consejo Nacional de Evaluación de la Política Social (CONEVAL), Secretaría de Desarrollo Social.

Hernández, José Luis. Assistant Director of Quality of Medical Attention, Secretaría de Salud.

Jackson, Enrique. President of the Senate, LVIII and LIX Legislatures.

Jaúregui, César. PAN Senator, LVIII and LIX Legislatures.

Klimek, Octavio. Environmental Advisor, PRD Grouping, Chamber of Deputies, LX Legislature.

Levín, Oscar. Chair of the Hacienda Committee in the Chamber of Deputies, LVIII Legislature; President of the Comisión Nacional para la Defensa de los Usuarios de las Instituciones Financieras (CONDUSEF) 2003-2006, Secretaría de Hacienda y Crédito Público.

Licona, Andrés. Director of Fiscal Planning 2002-2004, Secretaría de Hacienda y Crédito Público.

Madrid, Sergio. Executive Director of the Consejo Civil Mexicano para la Cultura Sostenible.

Marina, Alberto. Coordinator of Environmental Policy and Regulation, Secretaría de Medio Ambiente y Recursos Naturales.

Martínez, Adolfo. Assistant Director, Sistema de Protección Social en Salud, Secretaría de Salud.

Michel, Roberto. Director of Centro de Estudios de las Finanzas Públicas 1997-2000, Chamber of Deputies; Chief of the Unidad de Evaluación y Control de la Comisión de Vigilancia, Chamber of Deputies.

Motta, Lourdes. Public Official 2000-2006, Comisión Federal para la Protección contra Riesgos Sanitarios (COFEPRIS), Secretaría de Salud.

Nolasco, Edgar. Director of Centro de Estudios de las Finanzas Públicas 2000-2006, Chamber of Deputies.

Núñez, Arturo. PRD Senator, LX and LXI Legislatures.

Nuño, Aurelio. Advisor to the President of the Senate, LVIII and LIX Legislatures.

Obregón, Eduardo. Public official 1994-2000, Secretaría de Hacienda y Crédito Público.

Ortega, Alberto. Chief of the Public Policies Office 2006, Presidencia de la República.

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